



REPORT
to the
MINISTER FOR TRANSPORT
for the year ended
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March 2012

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FOREWORD

Last year was one of approximate stand-still for the Irish aviation sector. A small increase was recorded for passenger traffic at Dublin airport (up 2 per cent) and a marginal one for commercial aircraft movements across Dublin, Cork and Shannon airports, but from activity levels depressed in 2010 by airspace and weather closures. Profitability of larger passenger airlines licensed by the Commission was stable or improved in 2011, although the finances of some of the smaller air carriers remained weak. Licensable turnover in the travel trade stabilised in 2011, but this is 30 per cent lower than the corresponding level as recently as 2009, reflecting both the downturn in the economy and a continuing shift away from charter holidays.

The Commission's primary function is in the area of price regulation. In 2011 it set a new cap on the Irish Aviation Authority's (IAA) terminal services charges. The determination reduced the 2012 price cap by about 25 per cent from 2011; it is expected to fall by about 6 per cent more per annum in 2013-2015. The reductions were mainly due to the IAA's lower investment levels and the operating efficiency targets set by the Commission. For the first time, the charges that the IAA can collect are conditional on minimum service standards being achieved; charges could fall by up to 10 per cent in a year in which there are repeated delays in excess of 15 minutes arising from IAA equipment failures or staffing problems. The IAA's service quality performance will be reported by the Commission each quarter, as we already do for measures of airport service quality.

We continue to seek better and more effective ways to carry out our work. In December 2011 the Commission unveiled a new website for anyone seeking passenger rights information: www.flightright.ie. This website has the specific purposes of providing information in a user-friendly format to the public and encouraging those with passenger complaints to submit them using the online complaints system. An online system for airline licensing applications was also launched last year. And in an attempt to reduce administrative burdens, we gave certain travel firms the opportunity to seek an exemption from the need to produce audited accounts, which 42 applied for and received.

Also new in 2011 was the set of key performance indicators (KPI) developed by the Commission to meet the requirements of the October 2009 Government Statement on Economic Regulation. The KPIs were chosen to capture aspects of the office's performance – primarily the

timeliness of our work – important to those with whom we engage and that is substantially under the influence of the staff of the office. Full results for 2011 are reported in the appendix to this report. The results indicate that under normal conditions the Commission gives a prompt response to licence applications. Airspace closures and severe weather conditions in 2010 led to an exceptional spike in passenger complaints in 2011 and delays in processing complaints longer than the Commission would normally find acceptable.

Later sections of this report provide further information about the output of the office in 2011. In summary, aside from activity related to the regulation of aviation charges, the office's workload included responding to over 4,000 requests for information or complaints by air passengers, renewing 265 and granting 21 new travel industry licences, and monitoring 59 air carrier licences and ground handler approvals.

The money spent by the Commission is paid by licence holders and levy payers; we believe it important to demonstrate how it is used. The introduction of KPIs is a way in which the Commission can make its performance available for scrutiny. Financial control is also a priority for the Commission. The budget of the Commission has fallen since the middle of the last decade. Expenditure in 2011 was more than 35 per cent lower than in 2006, even though a passenger rights function was added to the Commission during that time. The approved level of staffing also fell to 18 from 22, a reduction of close to 18 per cent. Reorganisation, staff flexibility and moving aspects of a number of functions onto the web, have to date allowed the office to continue to carry out our functions at these lower staffing levels. Our budget for 2012 is again lower than for the preceding year. Some of the reduction is because of a low requirement for economic consultancy in years in which a price review is not undertaken. It is currently intended to set future industry levies so as to retain a modest reserve to manage future risks – such as significant litigation activity – without requiring a sudden increase in our levy when the economy may still be weak.


In November 2011, the Government announced decisions on institutional change and reform in the Irish public sector. In the case of the Commission, this involves a merger with the IAA. We have engaged with the Department and the IAA to give effect to these proposals, and we will continue to do so.

Turning to 2012, the Commission expects to work with the Department on new European aviation legislation. In the Foreword to last year's Annual Report, it was noted that nearly all new regulatory and licensing initiatives

originate in Brussels. I observed that not all such initiatives are equally valuable as consumer-protection measures and that some may not produce a net benefit. Subsequently, the EU has published a “better airports” package with the aim of improving the overall performance of the European airport industry. The package is composed of three legislative elements: on noise abatement, rules on allocating runway landing slots, and revisions to the regulations governing ground-handling services at airports. The Commission has not offered any views on the noise abatement issue given that it has no expertise in that area.

But it has been the position of the Commission for many years that the formal approvals process for ground handlers in Ireland could and should be discontinued without harming the consumer interest. Instead, the latest proposals may extend the process to Member States that do not already require it. On the other hand, the revised rules on runway slots are very modest in scope, given the potential benefits to passengers of using limited airport infrastructure more intensively. This is an area where it may be desirable to consider a more ambitious reform.

The Commission’s work in 2011 was made possible by dedicated and motivated colleagues. I would like to take this opportunity to thank them for their work in 2011 as in previous years and also to thank businesses we have worked with for their cooperation.



Cathal Guiomard
Commissioner

CHARGES AND SLOT REGULATION

The Commission's Role

The Commission:

- sets a price cap limiting the total revenues per passenger that the DAA can collect from airport charges at Dublin airport;
- sets a price cap limiting the total revenues that the IAA can collect from aviation terminal service charges at Dublin, Cork and Shannon airports;
- has to approve charges airports levy on airlines to fund services for passengers with reduced mobility;
- has to approve any changes to the fees charged by the airport authorities at Dublin, Cork and Shannon airports for access to installations needed to provide ground-handling services; and
- designates the scheduling status of Irish airports under the Slot Allocation Regulations, appointing a schedules facilitator or co-ordinator where necessary.

The Commission has no power to regulate other charges, including:

- en route air traffic control charges the IAA sets; and
- car-park charges at airports, and more generally non-aeronautical charges (except those levied for access to installations needed for ground-handling services at Dublin, Cork and Shannon airports).

Aviation Terminal Service Charges

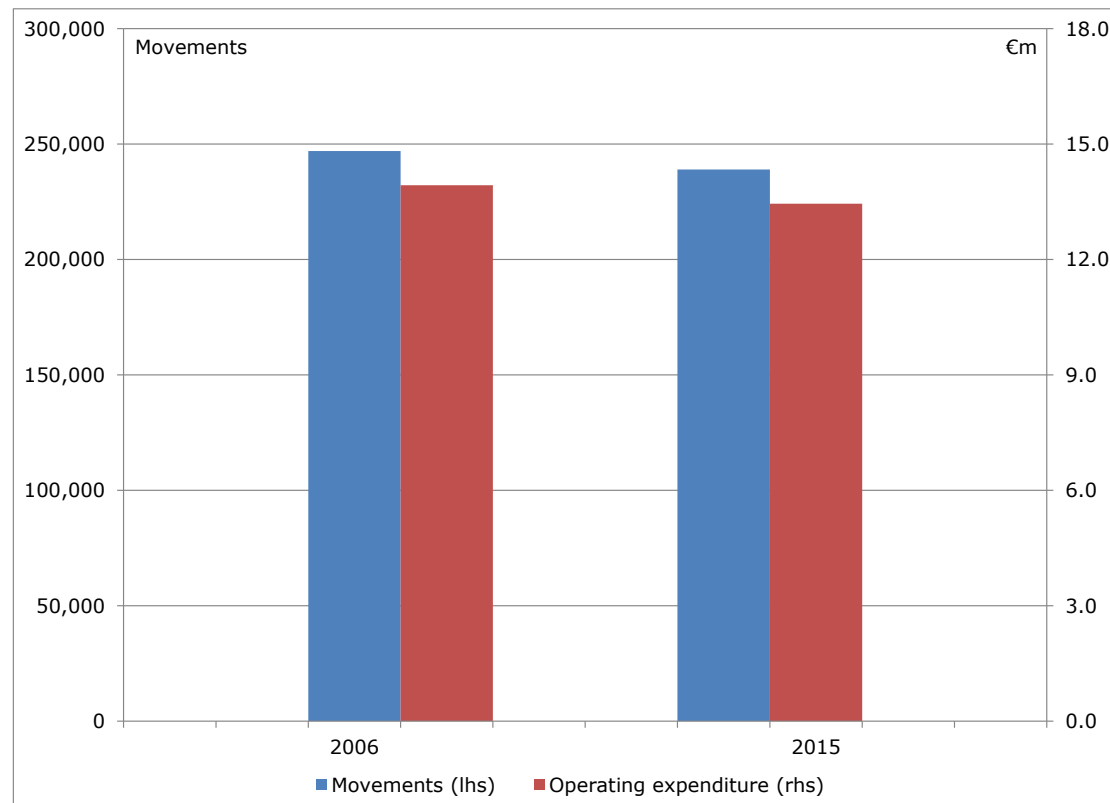
In October 2011 the Commission published a final determination on the maximum level of aviation terminal service charges that the IAA may impose. This is the third such determination for aviation terminal service charges that the Commission has made.

The determination reduced the 2012 cap on charges by about 25 per cent from the cap in 2011; the cap is expected to fall by about 6 per cent per annum in subsequent years. The large fall in the 2012 price cap arose primarily because of reduced allowances for capital costs. These reduced capital allowances reflected the lower level of investment the IAA was forecasting in 2011 compared to 2007, and to "claw back" revenues that had only been allowed in the 2007 determination on the basis of the IAA making investments it subsequently did not make.

The price cap is lower in each subsequent year because the Commission concluded there was scope for operating efficiencies. There are annual

reductions in the amount of operating costs allowed in the calculations, from the expected levels in 2011 to a target for operating costs in 2015 similar to the level of costs that the IAA incurred in 2006 (controlling for the effects of inflation). The forecast traffic movements in 2015 are roughly in line with the traffic movements in 2006. The chart below compares outturn and the Commission's assumed levels of traffic and operating costs in 2006 and 2015 respectively.

Figure 1.1: Traffic and IAA Terminal Service Operating Costs, 2006 and 2015



Source: Commission and IAA.

For the first time, the cap on the level of aviation terminal service charges that the IAA can collect is conditional on minimum service standards being satisfied. In particular, the cap could fall by up to 10 per cent in a year should there be delays in excess of 15 minutes arising from IAA equipment failures or staffing problems.

The process for making the determination had started in late 2010 when the Commission published an issues paper. In 2011 the Commission published both a draft determination in May and the final determination in October. Parties were given two months, as required by statute, to respond to the draft determination. Four parties responded: the Dublin Airport Authority (the DAA), the IAA, IATA, and Ryanair.

The determination will remain in force until 31 December 2015. This means that for the final year of the determination, the IAA will have to set aviation terminal service charges that comply both with our price cap and with a performance plan required as part of the Single European Skies II package. In April 2011 the Department of Transport notified the Commission that Ireland would defer implementation of these European regulations, as they relate to aviation terminal services, until 1 January 2015 when the second reference period commences. The IAA, as the designated National Supervisory Authority, will be responsible for setting the performance plan that it has to meet as the air navigation service provider.

Regulatory Accounts

The Commission completed in 2011 its review of the financial reporting requirements that the IAA and DAA must satisfy. In November, the Commission set out its proposed reforms. In the absence of any objections, the Commission has notified both the DAA and the IAA that the revised reporting requirements will apply with immediate effect.

In the case of the DAA, it will produce more detailed regulatory accounts. The format of the published regulatory accounts will make it easier for interested parties to compare out-turns with the assumptions made at the time of the last determination by including a financial review. The accounts will also include commentary describing how the DAA has complied with the prevailing price cap. These accounts will be audited.

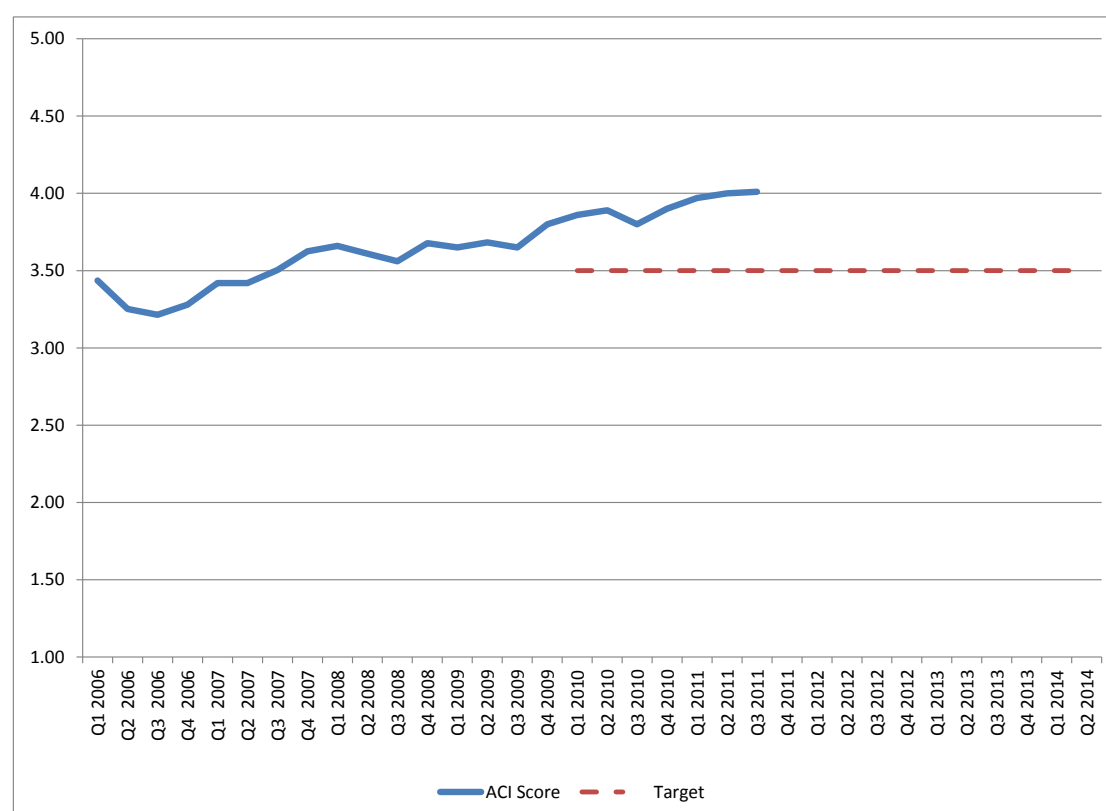
We have ended the requirement that the IAA provide regulatory accounts. This was motivated by two considerations. First, the turnover associated with the regulated activity is small, such that it is difficult to justify the costs associated with preparing and auditing such accounts. Second, the accounts would add little value to the information that the IAA has to prepare to satisfy separate reporting requirements under the Single European Skies regulations. We will require that the IAA provide an audited statement confirming its annual revenues from aviation terminal services complied with the prevailing price cap. We will publish that statement.

In future years, we do not anticipate publishing separate compliance reports setting out whether the DAA and IAA have complied with the price cap, since the information will be published in the DAA's regulatory accounts and the statement from the IAA. In 2011, we published two such documents.

Airport Charges

The Commission produced quarterly reports in 2011 giving the DAA's quality of service results for various measures that affect the price cap calculation. There are twelve measures of service quality in the monitoring scheme for which the DAA has a financial incentive to meet specified targets, including measures relating to security queue times, baggage-belt availability and various passenger survey results. The chart below shows the results for one of the passenger survey measures – overall passenger satisfaction at the airport. The DAA is responsible for collecting the data under each of these measures, although the Commission has sought to satisfy itself that the reported data can be relied upon. This has included occasional visits to the airport to record independently security queue times. In 2011, the only quality of service performance target that the DAA failed to meet was for survey results measuring satisfaction with its communication/telecom/e-facilities.

Figure 1.2: ACI Passenger Survey Scores for Overall Satisfaction at Dublin Airport



Source: DAA

In late 2010 the Commission published a consultation paper inviting parties to comment on whether we should continue considering revenues and costs of non-aeronautical services at Dublin airport when deciding on the maximum level of airport charges. There were four responses to this paper. Having reviewed the representations, we announced that we

intended to undertake further work on the topic. We have since met with all four respondents and plan to publish a subsequent consultation paper in 2012. Since any change could have potentially significant implications for future price caps, the Commission is keen to consult fully with all interested parties between now and the next determination in 2014. Both the DAA and Ryanair indicated an interest in 2009 in the Commission changing from its current "single-till approach", which does have regard to revenues and costs of non-aeronautical services when setting a price cap.

The EC's Airport Charges Directive came into force in 2011. We have been designated as the Independent Supervisory Authority in Ireland. Because Ireland already had a regulatory mechanism for governing airport charges, our role as the Independent Supervisory Authority is relatively limited. We have notified the DAA of our status and sought assurances from the DAA that it will comply with the relevant provisions.

Regulated Price Caps and Approved Charges

Table 1.1: Summary of Regulated Price Caps¹

| Type of price cap | 2011 price cap |
|---|---|
| Airport charges at Dublin airport | Should not exceed €10.76 per passenger |
| Aviation terminal services charges (ATSCs) at Dublin, Cork and Shannon airports | Should not exceed €160.24 per terminal service unit |

In 2011 we did not receive any applications from the DAA for approval of charges in relation to 'access to airport installations' (also known as ATI charges) at Dublin, Cork or Shannon airports. The levels of charges that have previously been approved, updating for inflation where appropriate, are given below.

¹ Assuming that all service-quality targets are met and, in the case of aviation terminal service charges, that 2011 out-turn traffic and revenues correspond to forecasts made in December 2011.

Table 1.2: Summary of Approved Charges

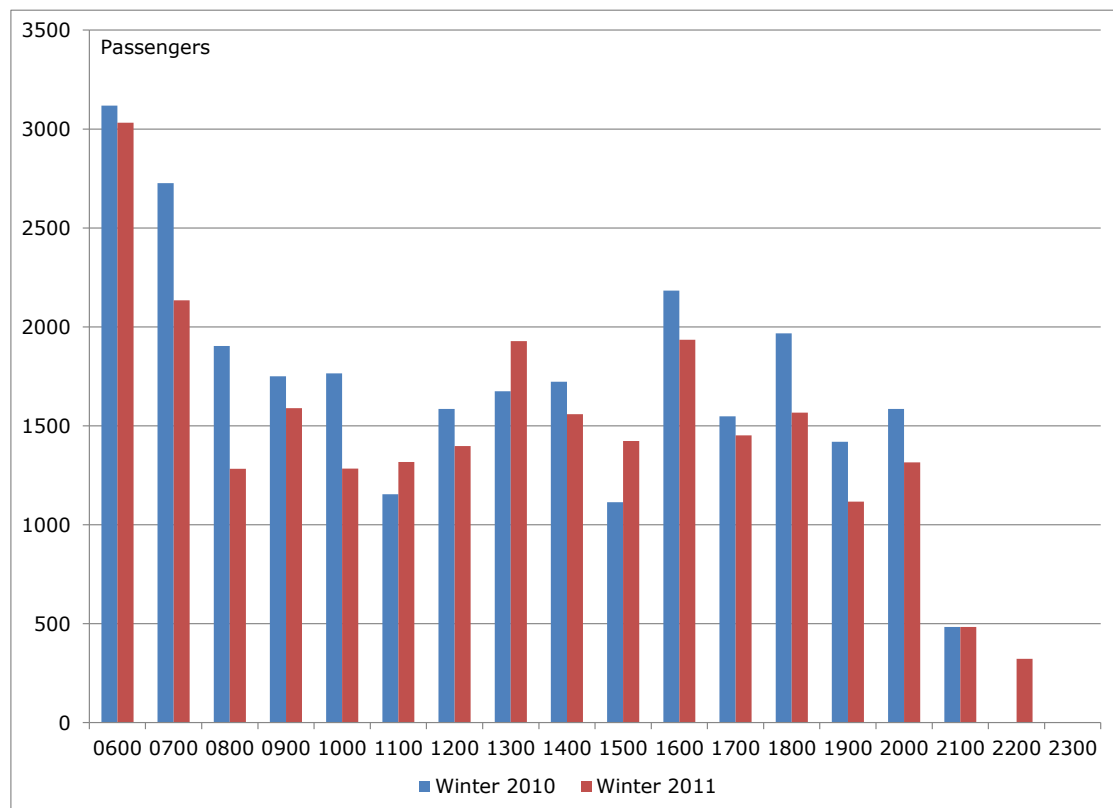
| Type of access charge (ATI) | Approved ATI charges as of 1 January 2012 |
|--|---|
| Dublin Airport annual check-in desk fee Flexible hourly rental check-in desk | Annual fee: €25,194 per desk per annum Rental: €30 per hour (or part thereof) |
| Shannon Airport annual check-in desk fee Flexible hourly rental check-in desk | Annual fee: €9,413 per desk per annum Rental: €24 per hour (or part thereof) |
| Cork Airport annual check-in desk fee Flexible half-hourly rental check-in desk | Annual fee: €13,180 per desk per annum Rental: €5.27 per half hour (or part thereof) |
| CUTE fees at Shannon Airport | €0.30 per embarking passenger |
| CUTE fees at Cork Airport | €0.24 per embarking passenger |

Slot Allocation

Dublin airport remains the only slot-coordinated airport in Ireland. The Commission designated it as slot co-ordinated in February 2007.

The contract with the airport coordinator, Airport Coordination Limited (ACL), was renewed in March 2011 for another five years. ACL has day-to-day responsibility for slot coordination at Dublin airport. It interacts daily with air carriers as well as attending bi-annual meetings at Dublin airport. The Commission also attends these meetings.

Despite the downturn in traffic since Dublin airport was designated as co-ordinated in 2007, the volume of traffic in peak hours of the day continues to remain high. The point-to-point business models of the two largest carriers at Dublin airport (Aer Lingus and Ryanair) rely on high levels of aircraft utilisation, and consequently give rise to an early morning peak, as the chart below illustrates.

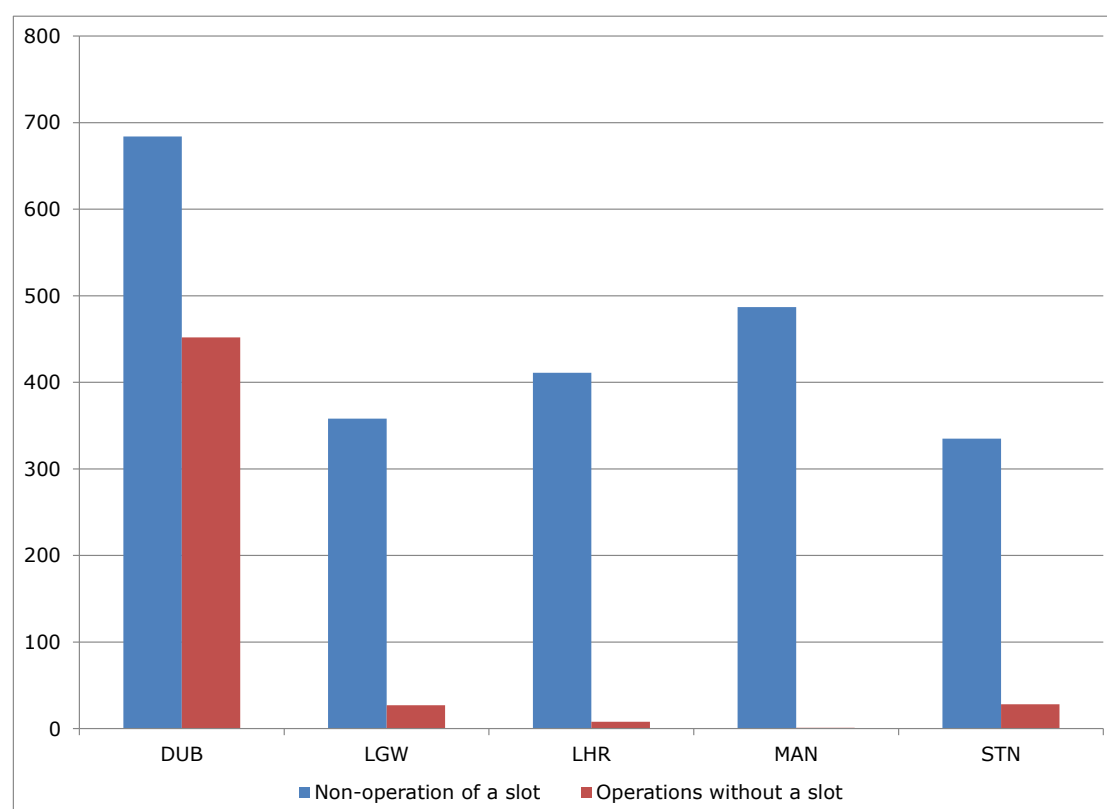
Figure 1.3: Dublin Airport Passenger Demand across the Day, W2011 vs W2010

Source: ACL

Note: The Winter 2011 season runs from October 2011 to March 2012; the Winter 2010 season ran from October 2010 to March 2011.

The Commission does not currently have enforcement powers and the co-ordinator can only “take back” or not re-allocate grandfathered slots to carriers that break the allocation rules. In contrast, in the UK there is a formal slot sanctions regime with penalties on parties that break the rules. Dublin airport again experienced more instances of air carriers operating without a slot than the three main London airports and Manchester airport in 2011. The chart below shows the number of flight operations in the 2011 summer season when air carriers operated “off slot” or chose not to operate in an allocated slot at Dublin and those four UK airports.

Figure 1.4: Non-operation of a Slot and Operations without a Slot – Summer 2011



Source: ACL

Work Programme for 2012

| Goal | Actions to achieve goal |
|---|--|
| Re-examine the existing approach to making determination for Dublin airport charges, identifying those areas, if any, where changes might be required | Publish follow-up consultation paper to CP4/2010 and proceed accordingly |
| Advise on possible changes to the slots regime | Provide advice as requested on introducing a sanctions regime Provide advice as requested on the better airports package as it relates to slots regulations |
| Monitor compliance with existing price caps and ensure continued smooth operation of the current scheduling regime at Dublin airport | Publish quarterly reports on service quality measures for the DAA and IAA Attend Dublin Airport Co-ordination Committee meetings and liaise with ACL |

LICENSING AND APPROVALS

The Commission's Role

The Commission

- licenses Irish-based air carriers transporting passengers, mail or cargo for remuneration and/or hire;
- licenses travel agents and tour operators selling overseas travel;
- administers a bonding scheme for travel agents and tour operators, and processes claims for refunds and repatriation in the event of a travel agent or tour operator going out of business;
- investigates instances of alleged illegal trading and, when necessary, prosecutes illegal traders; and
- grants approvals to companies engaged in ground-handling activities, such as marshalling aircraft, loading/unloading, refuelling, baggage handling, passenger handling and aircraft maintenance, at Dublin, Cork and Shannon airports.

The Commission's role does not encompass:

- safety regulation, which is a function of the IAA;
- licensing travel arrangements for domestic travel in Ireland;
- handling consumer complaints about travel agents, tour operators, hotels, luggage or airlines;
- handling complaints about advertising (except where it relates to possible illegal trading).

The Commission continued to administer the licensing and approval regimes for air carriers, ground handlers and travel trade firms in Ireland. As shown in the table below, the number of licensed travel trade firms increased marginally in 2011, while there were declines in the number of licensed air carriers and approved ground handlers.

Table 2.1: Number of Commission Licences and Approvals

| | Air Carriers | Ground handlers | Travel Agents | Tour Operators |
|-------------------------------------|---------------------|------------------------|----------------------|-----------------------|
| Licence holders, 1 Jan 2011 | 18 | 46 | 222 | 58 |
| New licences/approvals | 0 | 0 | 11 | 10 |
| Licences revoked/surrendered | 3 | 2 | 10 | 5 |
| Licence holders, 31 Dec 2011 | 15 | 44 | 223 | 63 |

Source: Commission

Air Carrier Licensing

At the end of 2011 there were 15 Irish based airlines licensed by the Commission. All of them were subject to continued monitoring regarding their compliance with the relevant legislation concerning insurance cover, ownership and control details, and financial fitness. The small aircraft and helicopter operators were issued with license discs to display in each of the aircraft listed on their Air Operator's Certificates. We processed six requests from Irish licensed airlines for approval to wet lease aircraft registered outside the European Union.

The number of licensed carriers at the end of 2011 was three lower than twelve months earlier. During 2011, the Commission revoked one operating licence – suspended since late 2009 – following the company's failure to meet the relevant requirements to reinstate its operating licence and Air Operator's Certificate. A further two operators voluntarily surrendered their licences: one operator moved its sole aircraft to the UK because of reduced demand for charter operations in Ireland; the other was unable to find a replacement aircraft.

There were no new operating licences issued in 2011. In December, we launched an online application system for new applicants seeking an operating licence. This replaces the previous hardcopy application form and is designed to simplify the application process.

In April 2011, we published an enhanced guidance note on the ownership and control requirements of the airline licensing regulations. Holders of operating licences must be able to satisfy their licensing authority on an on-going basis that they remain both majority owned and effectively controlled by Member States and/or nationals of Member States. The test of ownership and control are separate and both have to be met to achieve compliance. We published the guidance note to assist both new applicants for an operating licence and existing licence holders in understanding

these requirements and the Commission's approach to examining compliance. In 2011 we commenced examining two cases of a change in the ownership structure of an existing license holder: at the time of writing this report, we have been satisfied that the relevant ownership and control requirements have been met.

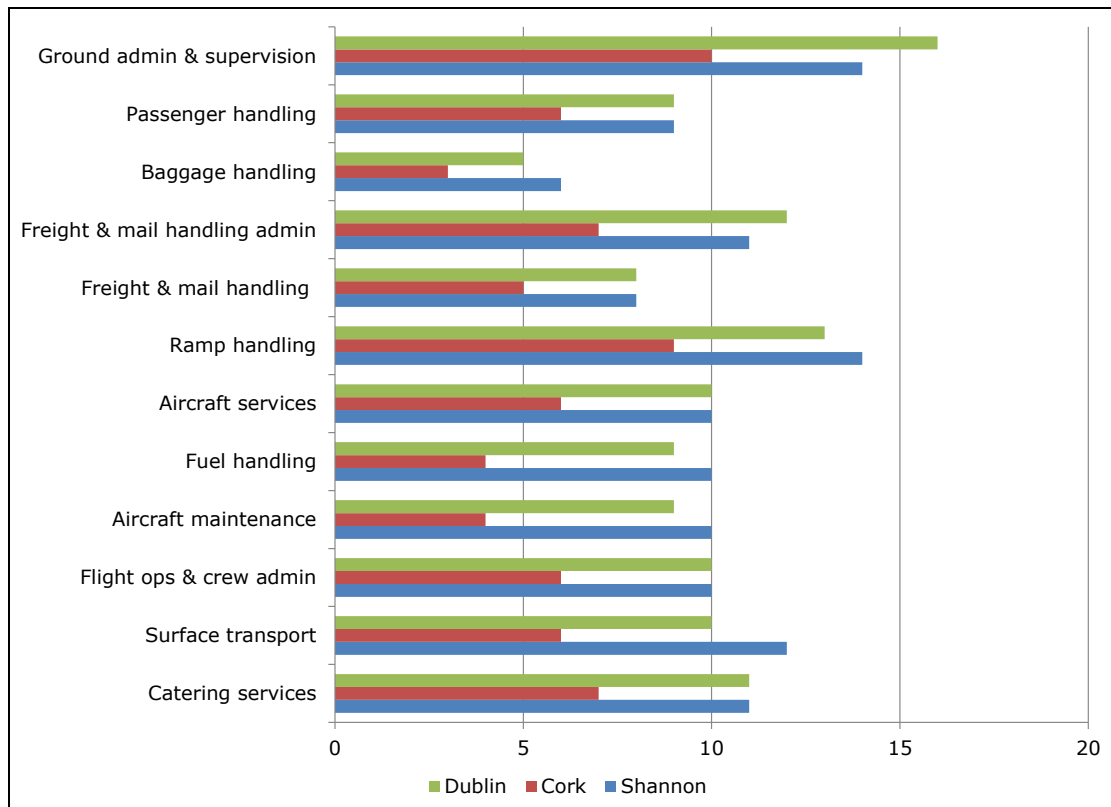
In early 2011, the EU announced that the internal aviation market would be subject to a 'fitness check' to see if the current rules are still fit for purpose. Areas to form part of the fitness check were highlighted and include: price transparency, insurance requirements, public service obligations, market access and leasing. In July 2011, we responded to a stakeholder consultation addressing questions for public authorities on the leasing of aircraft provisions under Regulation (EC) No 1008/2008. We expect that further stakeholder consultations will follow as part of this study.

Ground Handling Approvals

At the end of 2011 there were 12 approved self-handlers (i.e. where an airline chooses to provide ground handling services for itself) and 36 approved suppliers of ground handling services (or third-party handlers) operating at Dublin, Cork and Shannon airports. Of the approved self-handlers, four are also approved to provide services to third parties.

The Commission renewed nine of the approvals in 2011 (approvals are issued for a period of five years). We also approved requests from two ground handlers to extend the scope of their approval – to cover more services in one case, and a second airport in the other. Two approvals were surrendered in 2011: one self-handler relocated its only aircraft to the UK, while a third-party approval holder voluntarily surrendered its approval since it is no longer engaged in the activity.

On 1 December 2011 the European Commission published its airports package, which included proposals for a new ground handling regulation. We have already provided the Department with feedback on the proposals and attended meetings. We expect to continue to do so in 2012. The motivation for the regulation is to enhance the efficiency and overall quality of ground handling services. As the chart below shows, at the three main Irish airports for each ground handling activity there are already a number of suppliers with the necessary third-party approval.

Figure 2.1: Approved Suppliers of Ground Handling Services by Activity, 2011

Source: Commission

Travel Trade Licensing

We granted licenses to 286 travel trade firms in 2011. This was six more than in 2010; during the year there was a net increase of five tour operators and one travel agent. While some travel trade companies did not seek to renew their licences, there were no collapses in 2011. Consequently, we did not have to administer any bonds to effect any repatriations or refunds. There were 13 complaints to the Commission alleging trading by unlicensed operators in 2011, all of which were investigated.

Last year was the first opportunity for travel trade firms to seek an exemption from the need to produce audited accounts. In an attempt to reduce the administrative burdens associated with the licensing regime, in 2010 we had issued two statutory instruments that permitted firms to seek such an exemption. Forty-two travel trade firms applied for and received the exemption. A number of other companies that would be eligible for an exemption nevertheless continue to have their accounts audited to satisfy other requirements.

We continue to meet with the industry. In 2011 we attended an industry association conference, a forum that allowed for a discussion on best practice within the industry. We also visited a number of licensed operators' premises to check the adequacy of their financial, business and organisational resources.

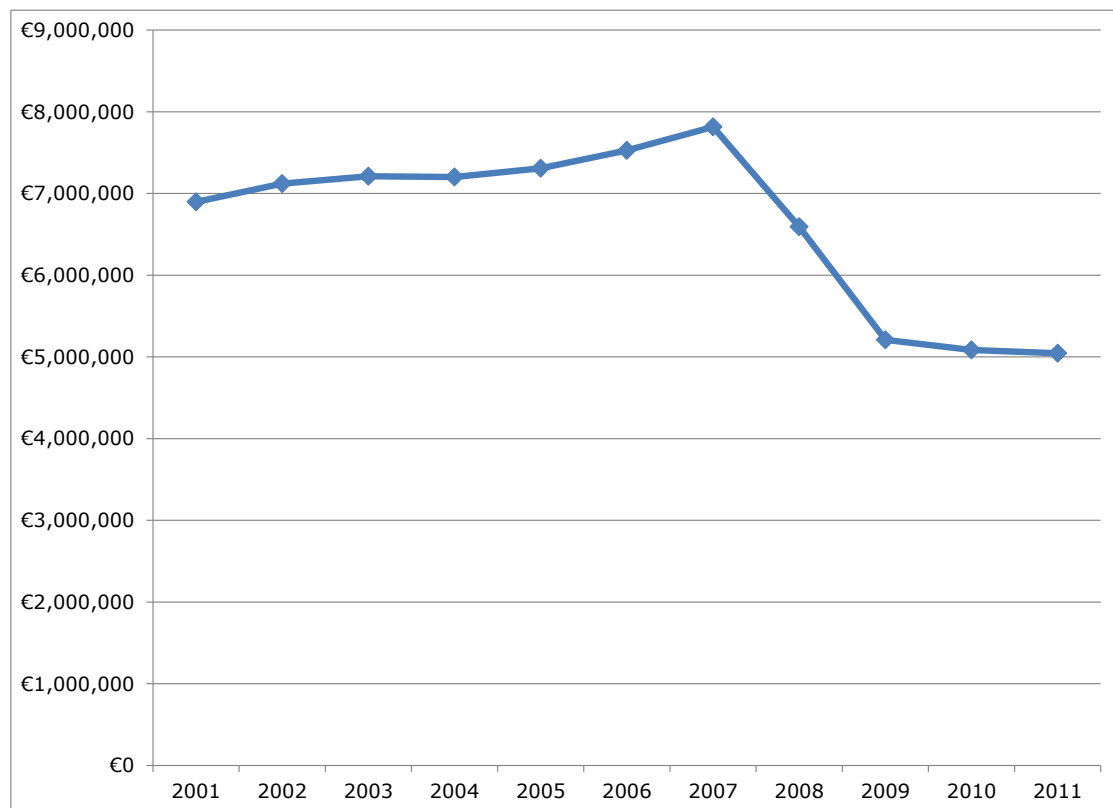
Work on a number of legal proceedings reported in the 2010 Annual Report continued in 2011. The liquidation process for Fáilte Travel continues, with the liquidators making a number of reports to the High Court. We are waiting for the liquidator to clarify a number of matters arising from these reports.

Despite a number of demands, Manorcastle failed to pay the legal costs due to the Commission or to engage in any meaningful discussion on the matter. We made renewed requests for payment in 2011 and the debts were registered in the High Court as judgements against the company. We understand that the company has not traded and has not posted annual accounts for a number of years.

In March 2010 we were awarded the costs arising from two legal actions commenced by Budget Travel. The costs were agreed with the liquidator, and we have been ranked as an unsecured creditor in the liquidation process. We understand from the liquidator that the process could take up to another year to resolve.

We continue to administer the Travellers' Protection Fund (TPF). The most recent annual accounts will be laid before the Houses of the Oireachtas once the Comptroller and Auditor General has audited them. For the third year running, the size of the TPF has remained steady, albeit one third less than its level prior to the large number of collapses in 2008 and 2009 (see the chart below). In that same period the level of licensable turnover has fallen significantly – actual licensable turnover in 2011 was less than half the level of licensable turnover projected in 2007. This fall in licensable turnover is only partly explained by the economic downturn in Ireland; it also reflects the fact that increasingly consumers are making travel arrangements in ways not covered by the licensing and bonding scheme that we administer, for example buying their flights directly from airlines.

Figure 2.2: Value of the Travellers' Protection Fund



Source: Commission

Work Programme for 2012

| Goal | Actions to achieve goal |
|---|--|
| Continue to administer the licensing and approvals regimes for air carriers, ground handlers and travel trade firms | <ul style="list-style-type: none"> Process applications in a timely manner and monitor compliance by existing licence holders Process claims for refunds and repatriations, where required Investigate reports of unlicensed travel trading |
| Advise on possible changes to the ground handling regulations | Provide comments on draft legislation and attend meetings as required |

AIR PASSENGER RIGHTS

The Commission's Role

For all flights due to depart from Irish airports and for flights arriving into Irish airports from non-EU countries (provided they were operated by EU-licensed air carriers) we are responsible for investigating complaints in relation to:

- flight cancellations;
- flight delays of at least two hours; and
- instances of denied boarding or downgrades.

We also investigate complaints relating to the assistance received by disabled persons and persons with reduced mobility (PRMs) when:

- making a reservation;
- travelling through an airport within Ireland; and
- on board a flight which departed from an Irish airport.

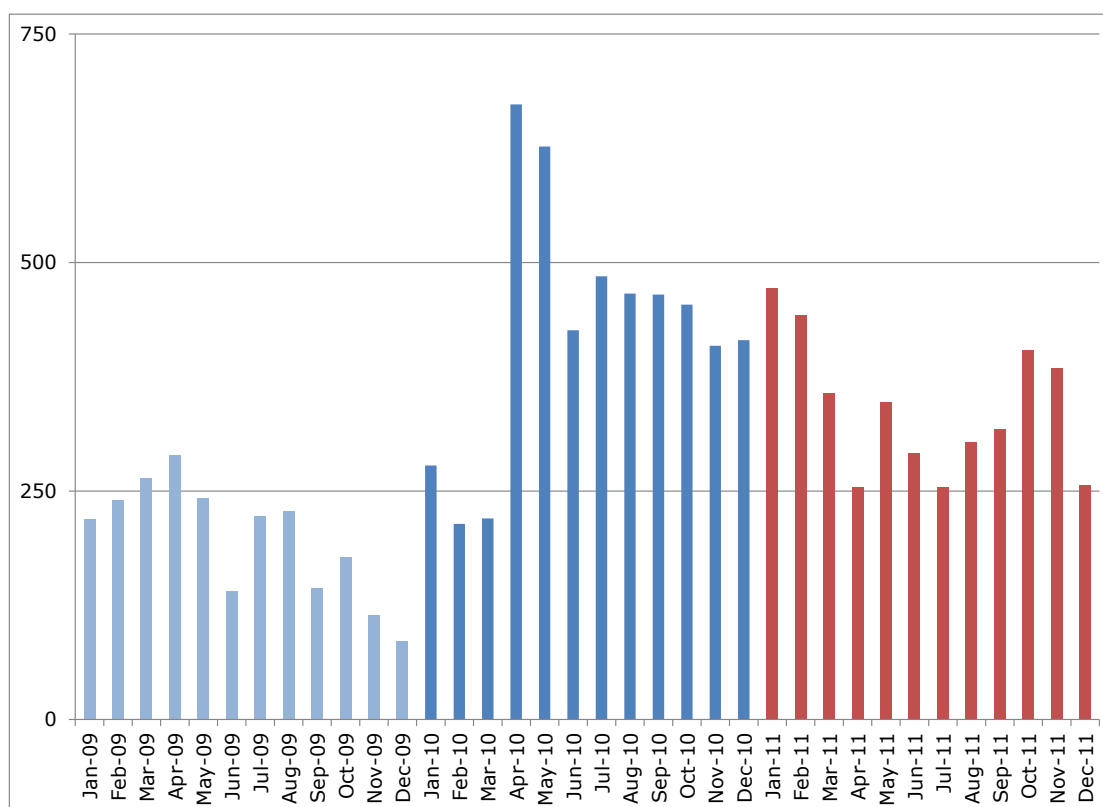
We do not have the authority to handle complaints about:

- baggage, taxes and airline charges, including fuel surcharges;
- booking or ticketing errors and visa issues;
- refunds due to illness or bereavement;
- false advertising;
- on-board services or in-flight issues;
- late arrivals at check-in;
- airline booking conditions and website problems; and
- safety issues.

Passenger Complaints

In 2011 the Commission received 4,105 queries from the public. This represents a decrease of almost 20 per cent from the 2010 level. The reduced number of queries was expected, since 2010 had generated a large number of queries and complaints because of the volcanic ash crisis and extremely poor weather. As the chart below shows, the number of queries in 2011 remained above the level in 2009, despite falling back from the highs of 2010.

Figure 3.1: Queries Received by Month (2009-11)



Source: Commission

Over three-quarters of the queries received related to matters outside the Commission's remit. For each of these 3,117 queries, we engaged with the individual and referred them to the body or authority competent to deal with their complaint (where known).

Cancellations, Delays, Denied Boarding and Downgrades

Of the 967 queries about cancellations, long delays, denied boarding or downgrades, most concerned cancellations and delays as the table below shows. Over 40 per cent concerned flights departing from airports in other Member States or flights arriving into other Member States from third countries (e.g. the USA) operated by Community-licensed carriers. We forwarded these complaints on to the relevant national enforcement body (NEB) for further investigation, having conducted a preliminary screening to satisfy ourselves that they fell within the remit of the air passenger rights regulations.

Table 3.1: Breakdown of Air Passenger Rights Complaints in 2011

| Type of Complaint | CAR | Other NEB | Total | % |
|-------------------|------------|------------|------------|------------|
| Cancellation | 362 | 250 | 612 | 63 |
| Long delay | 159 | 144 | 303 | 31 |
| Denied boarding | 23 | 27 | 50 | 5 |
| Downgrade | 1 | 1 | 2 | 0 |
| Total | 545 | 422 | 967 | 100 |

Source: Commission

The Commission had to investigate the remaining 545 complaints. It has concluded 323 of those complaints. In 52 cases, the complaint was either found to be unsustainable under the Regulation, withdrawn by the passenger, or related to an infringement for which there was no redress available to the passenger.

The table below summarises how many of the remaining 271 complaints resolved in 2011 resulted in the passenger receiving a refund, reimbursement and/or compensation. In the overwhelming majority of cases, the air carrier was not required to pay compensation because it could demonstrate that there were “exceptional circumstances” and that it had taken all reasonable measures to avoid the cancellation or delay. Nevertheless, air carriers were required to provide refunds or reimbursements to over two-thirds of complainants.

Table 3.2: 2011 Complaints Resulting in Refunds, Reimbursement or Compensation

| Resolution | |
|--|-----|
| Compensation paid by airline to passenger | 18 |
| Compensation not due – airline demonstrated exceptional circumstances and that it had taken all reasonable measures to avoid delay or cancellation | 252 |
| Airline refunded the cost of the ticket and/or reimbursed expenses | 183 |

Source: Commission

We continue to investigate the remaining 222 complaints received in 2011. Just over 60 per cent of the investigations outstanding at the end of 2010 were resolved last year, bringing the total number of investigations concluded last year to 429.

Persons with Reduced Mobility

There were 21 enquiries in 2011 relating to persons with reduced mobility. In most cases, these occurred prior to the booking stage and so did not constitute a possible infringement of the regulation. There were five complaints that related to assistance received:

- At the time of booking;
- From the airport management body at the airport;
- On-board the aircraft from the air carrier.

We investigated four of these complaints – the fifth fell outside the remit of the Commission and we forwarded it to the competent NEB. All four investigations have been concluded. In three cases, we found no infringement; in the fourth case, an infringement was noted but the matter was subsequently addressed by the air carrier to the passenger's satisfaction.

Other work

Aside from handling enquiries and complaints, in 2011 we launched our new consumer-focused website www.flightright.ie. The website is designed to facilitate easy access to information on the rights of passengers affected by cancellations and delays and will also provide information on the assistance that disabled persons and persons with reduced mobility can expect. We hope it will also facilitate greater use of our online complaints system, which was introduced in December 2010.



We sought to raise consumer awareness about passenger rights. The launch of the new website generated some media coverage and we again hosted an information stand at the 2011 Holiday World Fair in Dublin.

We inspected all nine airports in Ireland to ensure that

- air carriers were complying with the air passenger regulations; and
- airport management bodies were meeting their obligations to passengers with disabilities and reduced mobility.

We continue to engage with the EU and other NEBs to facilitate a harmonised approach to the application of the regulations. In 2011, we commenced work on drafting guidelines for implementing the regulations concerning the rights of disabled persons and persons with reduced mobility when travelling by air. We also participated in a consultation about possible revisions to the regulations governing passenger rights in relation to cancellations, delays, denied boarding and downgrades.

Work Programme for 2012

| Goal | Actions to achieve goal |
|--|---|
| Ensure compliance with EU laws concerning passenger rights | Investigate complaints received Inspect airports |
| Increase public understanding of air passenger rights issues | Provide information at suitable industry events and through our website |

ADMINISTRATIVE AND LEGAL FUNCTIONS

Human Resources

In late 2010, the Commission's allowed staffing complement was reduced from 22 to 18 under the new Employment Control Framework. Actual staffing levels in the Commission were and remain below this ceiling and we have sought permission from the Department to fill vacancies. For positions where we were granted an exemption from the moratorium on recruitment, we were able to identify suitable staff to fill the positions.

However, two positions (more than ten per cent of the office's entire allowed staffing complement) remain unfilled more than a year after the vacancies were first notified to the Department. We have sought to fill these positions from the Public Service Redeployment Panel but to date have had no success.

Salaries in the Commission are in line with government pay policy. Increments, where applicable, are paid upon satisfactory performance reviews. Three members of staff are on secondment from the Department of Transport and one from the Road Safety Authority. Their salary costs are recouped at cost plus a set charge for superannuation and centrally provided services.

The salary and pension contributions of the sole Member of the Commission totalled €195,579 in 2011. No other benefit was provided.

All full-time staff members are obliged to join the Commission's pension scheme. There was no change in the scheme's interim status in 2011, which has been awaiting approval from the Department of Finance since 2002. An actuarial review of the pension liabilities shows a continuing deficit in the scheme. At the end of 2011, under FRS17 rules, the deficit was €252,733, up from €116,174 in 2010. The Commission expects to contribute €69,878 to the pension scheme in 2012.

In 2011, the Commission continued to outsource non-core administrative functions relating to media relations, IT maintenance and payroll.

Administrative Obligations

The Commission makes every effort to operate to the highest standards of corporate governance. The Department of Finance's *Code of Practice for the Governance of State Bodies*² (2009 edition) sets out a number of guidelines aimed at promoting good governance. The Commission, including its Audit Committee, comply with this Code where relevant.

² <http://www.finance.gov.ie/documents/guidelines/codepractstatebod09.pdf>

Because of the nature of its activities, as well as the structure of the Commission itself, certain aspects of the Code are not directly applicable. Further information on how the Commission has complied with the Code is set out in the rest of this section.

Under the Code, the Commission is required to have a procedure for confidential 'whistle blowing' on financial irregularities and other misdeeds. We made a proposal to the Department of Transport as to how this requirement might be complied with in 2010 and are still awaiting a response.

In 2011, the Commission consumed 2,134 KWh of energy. This is less than the Commission consumed in 2010.

Transparency and Freedom of Information

The Commission aspires to conduct its functions transparently. Consultation papers, supporting documents, responses from stakeholders and regulatory decisions are published on our website www.aviationreg.ie and hard copies are available on request. A schedule of the Commission's publications in 2011 is included in the appendix. The appendix also includes an output report and key performance indicators, in accordance with the requirements of the October 2009 *Government Statement on Economic Regulation*.

The Commission received one request under the Freedom of Information Acts in 2011. The information sought was granted in part, since a number of the records sought did not exist.

Audit Committee

The Audit Committee met four times in 2011. At each meeting the Committee was briefed in detail on progress within the Commission on the various work strands. The Commissioner attended some of these meetings to advise the Committee on developments. Staff of the Commission dealing with legal, administrative and accounting matters also attended meetings to discuss their work. Representatives of the Commission's Internal Auditors attended those elements of each meeting appropriate to their responsibilities.

In 2011, the issues the Committee focused on were:

- the risk register
- claims processing
- internal financial controls
- follow up to internal audits

- the business continuity plan in an emergency, and
- the code of practice for the governance of State bodies.

The Audit Committee was satisfied with the Commission's arrangements in these areas.

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| Commission Code of Conduct | <p>The Commission has a Code of Conduct for its employees.</p> <p>The <i>Civil Service Codes of Standards and Behaviour</i> applies to staff seconded from the Department of Transport.</p> |
| Internal Audit | <p>The Commission appoints a firm of auditors to undertake its internal audit function. The internal auditor operates under the guidance of an external Audit Committee. Following an open tender in 2011, D'Arcy Lynch was selected as the Commission's internal auditor.</p> <p>In 2011, D'Arcy Lynch conducted audits of IT security protocols and security, website security, the implementation of past audit recommendations, and a review of our Statement of Internal Financial Controls. These reports were reviewed by the Commissioner, senior management and, with the exception of the website audit report which is still being finalised, the Audit Committee.</p> |
| Procurement | <p>The Commission's procurement procedures comply with national and, where applicable, EU guidelines and directives. The value of the majority of the contracts is such that national guidelines tend to apply.</p> <p>The Commission has developed a procurement plan for 2012, setting out the areas in which it expects to tender for services.</p> |
| Disposal of assets and access to assets by third parties | <p>The Commission has no assets of the scale and value envisaged under the guidelines (€150,000). No asset disposals took place during 2011.</p> |
| Diversification | <p>The Commission did not make any diversification proposals to the Minister in 2011.</p> |
| Investment appraisal | <p>The Commission did not incur any significant capital expenditure in 2011 that comes within the scope of the activities envisaged in the Department's 2005 <i>Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector</i>.</p> |
| Remuneration of senior management and director's fees | <p>Please see the <i>Human Resources</i> section of this chapter for information on this area. There are no directors and fees do not apply.</p> |
| Reporting arrangements | <p>The Commission prepares reports to the Minister for Transport as required. The Commission has a fully developed accounting system, providing detailed monthly management and financial reports to senior</p> |

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|---|--|
| | <p>management. The Commission adopts International Reporting Standards for its reporting. It computes its accounts on the accrual accounting system except where specified in the notes to the financial statements. These statements are audited by the Comptroller and Auditor General.</p> <p>The Commission has measures in place to comply with the obligation to keep proper books of account. These are kept at its sole office.</p> |
| <p>Strategic and corporate planning</p> | <p>The Commission's functions and responsibilities are set out in the Aviation Act 2001, the State Airports Act 2004 and the Aviation Act 2006.</p> <p>The Commission annually sets out a work plan for each functional area designed to satisfy its objectives and statutory obligations. The Commission reports annually to the Minister for Transport on the manner in which these functions have been discharged in the previous year.</p> <p>The Commission has not prepared a five year strategic plan. This decision not to prepare a plan was agreed with the Department following the October 2009 government announcement that the Commission would merge with the National Transport Authority. More recently, the Government's November 2011 <i>Public Sector Reform Plan</i> announced that it would merge the IAA with the Commission in 2012.</p> |
| <p>Tax compliance</p> | <p>The Commission is liable to PAYE, VAT and PSWT. The Commission has submitted all relevant tax returns for 2011 and is fully tax compliant.</p> |
| <p>SIFC</p> | <p>The Commissioner has confirmed in the Financial Statements for 2011 that a review of the effectiveness of the system of internal financial control was conducted. The SIFC contains a comprehensive set of policies and procedures relating to financial controls. For the purpose of Oireachtas accountability, the Commissioner is the Accountable Officer.</p> |
| <p>Travel Policy</p> | <p>The Commission complies with Government travel policy requirements.</p> |
| <p>Disclosure of interests</p> | <p>The Commissioner, his staff, and all consultants and advisers as required comply with the relevant disclosure requirements arising under section 18 of the Ethics in Public Office Act 1995 and sections 17-18 of the Aviation Regulation Act, 2001.</p> <p>The Public Appointments Service is responsible for organising open competitions to appoint Members of the Commission. There is currently one Commissioner.</p> |
| <p>Risk Management</p> | <p>The Commission maintains a risk register which is regularly reviewed by the senior management and the Commission works with the audit committee to manage risks.</p> |

FINANCIAL INFORMATION

Levy

For the purpose of meeting expenses properly incurred in discharging its functions, the Commission may make regulations imposing a levy to meet but not to exceed its estimated operating costs and expenses. The levy is payable by such classes of undertakings as may be specified by the Commission.

On 22 December 2011, the "Aviation Regulation Act 2001 (Levy No. 12) Regulation 2011" (S.I No. 689 of 2011) gave effect to the Commission's Levy for 2012. The revenues the Commission expects to receive from the levy in 2012 are about 9 per cent lower than the 2011 levy revenues.

Should the Commission continue to exist in its current form past 2012, it intends to set future levies having regard to operating costs and expenses over a five-year horizon. This change is intended to smooth the annual fluctuations in the levy.

Financial Statements

During 2011, the financial statements for 2010 were audited by the Comptroller and Auditor General and submitted to the Minister. They were noted by Government at its meeting of 31 January 2012 and laid in the Oireachtas Library on 6 February 2012. These accounts are available on the Commission's website.

Draft financial statements for the year ended 31 December 2011 have been prepared, and were submitted for audit by the Comptroller and Auditor General on 27 February 2012. An extract from those statements is provided in the following pages.

Income and Expenditure Account for the Year ended 31 December 2011

| Income | 2011 | 2010 |
|--|--------------------|--------------------|
| | € | € |
| Levy Income | 2,458,750 | 2,688,105 |
| Licence Fees | 199,832 | 199,828 |
| Other | 37,970 | 144,181 |
| GROSS INCOME | 2,696,552 | 3,032,114 |
| Transfer (to)/from Capital Account | 16,688 | 6,706 |
| NET INCOME | 2,713,240 | 3,038,820 |
| Expenditure | | |
| Staff Costs | 1,288,410 | 1,652,445 |
| Pension Costs | 136,178 | 123,514 |
| Consultancy | 172,878 | 123,209 |
| Legal Fees | (160,167) | (112,410) |
| Rent | 282,550 | 283,363 |
| Schedules Facilitation | 280,369 | 298,573 |
| Other | 394,466 | 459,918 |
| | 2,394,684 | 2,828,611 |
| Operating Surplus/(Deficit) | 318,556 | 210,209 |
| Balance as at 1 January | 1,962,386 | 1,752,177 |
| Balance as at 31 December | 2,280,942 | 1,962,386 |

Statement of Total Recognised Gains and Losses for Year ended 31 December 2011

| | 2011 | 2010 |
|---|-------------|-------------|
| | € | € |
| Operating Surplus | 318,556 | 210,209 |
| Actual return less expected return on pension scheme assets | (163,859) | 36,394 |
| Experience gains/(losses) arising on pensions scheme liabilities | 65,369 | 129,106 |
| Changes in assumptions underlying the present value of the pension scheme liabilities | - | (210,284) |
| Actuarial gain/(loss) | (98,490) | (44,784) |
| Total recognised gains/(losses) relating to the financial year | 220,066 | 165,425 |

The cumulative loss recognised from actuarial gains and losses arising in the last four years amounts to €14,102.

| Movement in Pension Reserve | 2011 | 2010 |
|------------------------------------|-------------|-------------|
| Balance at 1 January | (103,591) | (58,807) |
| Actuarial gain/(loss) | (98,490) | (44,784) |
| Balance at 31 December | (202,081) | (103,591) |

Balance Sheet as at 31 December 2011

| | 2011 | 2010 |
|---|---------------------|---------------------|
| | € | € |
| Fixed Assets | | |
| Tangible Assets | 33,735 | 50,423 |
| Current Assets | | |
| Bank Accounts | 14,347,438 | 14,245,493 |
| Debtors and Prepayments | 945,614 | 1,334,473 |
| | <u>15,293,052</u> | <u>15,579,966</u> |
| Creditors: | | |
| Amounts falling due within one year | | |
| Creditors and Accruals | (157,099) | (239,391) |
| Cash Bond Accounts | (12,478,826) | (12,772,676) |
| | <u>(12,635,925)</u> | <u>(13,012,067)</u> |
| Net Current Assets/(Liabilities) | 2,657,127 | 2,567,899 |
| Total Assets less Current Liabilities | 2,690,862 | 2,618,322 |
| Provisions for Liabilities and Charges | (325,533) | (592,930) |
| Net Assets excluding Pension Liability | 2,365,329 | 2,025,392 |
| Net Pension Asset/(Liability) | (252,733) | (116,174) |
| Net Assets/(Liabilities) including Pension Asset/(Liability) | 2,112,596 | 1,909,218 |
| Financed by | | |
| Income & Expenditure Account Surplus/(Deficit) | 2,280,942 | 1,962,386 |
| Capital Account | 33,735 | 50,423 |
| Pension Reserve | (202,081) | (103,591) |
| | <u>2,112,596</u> | <u>1,909,218</u> |

Cashflow Statement for the Year ended 31 December 2011

| | 2011 | 2010 |
|---|------------------|---------------------|
| | € | € |
| Reconciliation of operating surplus to net cash inflow/(outflow) from operating activities | | |
| Surplus/(deficit) on Income and Expenditure | 318,556 | 210,209 |
| Difference between Pension Cost and Employer Contribution | 38,070 | 20,370 |
| Depreciation | 16,688 | 16,574 |
| Bank Interest | (29,060) | (16,949) |
| Transfer (from)/to Capital Account | (16,688) | (6,706) |
| Decrease/(Increase) in Debtors | 384,538 | 23,956 |
| Decrease/(Increase) in Creditors | 4,321 | 12,100 |
| Decrease/(Increase) in Prepayments | 4,549 | (302,645) |
| Decrease/(Increase) in Accruals | (86,842) | (20,003) |
| Decrease/(Increase) in Provisions | (267,397) | (342,500) |
| Net Cash Inflow/(Outflow) from Operating Activities | 366,735 | (405,594) |
| Cash Flow Statement | | |
| Net Cash Inflow/(Outflow) from Operating Activities | 366,735 | (405,594) |
| Returns on Investments | | |
| Bank Interest | 29,060 | 16,949 |
| Capital Expenditure | | |
| Purchase of fixed assets | - | (9,868) |
| Financing | | |
| Increase/(Decrease) in Cash Bond Accounts & TPF | (293,850) | (11,178,845) |
| Management of Liquid Resources | | |
| (Increase)/Decrease in Funds on Deposit | (531,516) | 481,056 |
| (Increase)/Decrease in Cash Balances | (429,571) | (11,096,302) |
| Reconciliation of net cash flow to movements in net funds | | |
| Increase/(Decrease) in cash in the period | (429,571) | (11,096,302) |
| Cash used to increase liquid resources | 531,516 | (481,056) |
| Change in Net Funds | 101,945 | (11,577,358) |
| Opening Net Funds | 14,245,493 | 25,822,851 |
| Closing Net Funds | 14,347,438 | 14,245,493 |

APPENDIX

Commission Papers in 2011

| | |
|---------------------------|---|
| CP1/2011 May 2011 | Draft Determination on Aviation Terminal Service Charges |
| CP2/2011 October 2011 | Determination on Maximum Level of Aviation Terminal Service Charges |
| CN1/2011 January 2011 | Revised arrangements for the provision of audited accounts in the travel trade sector |
| CN1/2011 November 2011 | Proposed changes to the Regulatory Accounts |
| CN3/2011 November 2011 | Proposed arrangements for Travel Trade Licensing in Spring 2012 |

Output Report

Charges and Slot Regulation

| 2011 Goal | 2011 Outturn |
|--|--|
| Make a new Determination for ATSC charges (IAA) at Dublin, Cork and Shannon airports | ➤ Draft and final determination published |
| Monitor compliance with the price caps that are in place | <ul style="list-style-type: none"> ➤ Commission satisfied that IAA and DAA complied with price cap ➤ DAA QoS reports published |
| Review and, if necessary, change regulatory reporting requirements | ➤ Review of reporting requirements completed and DAA and IAA notified of changes |
| Re-examine the existing approach to making determinations for Dublin airport charges, identifying those areas, if any, where changes might be required | ➤ Work on-going |
| Ensure the continued smooth operation of the current scheduling regime at Dublin airport | ➤ Attended Dublin Airport Co-ordination Committee meetings and interacted with ACL to monitor traffic trends at Dublin airport |

Licensing and Approvals

| 2011 Goal | 2011 Outturn |
|--|---|
| Introduce online air carrier licensing system | ➤ System launched on 14 December |
| Ensure air carrier licence-holders meet the requirements of the legislation | ➤ One license revoked |
| Promote greater understanding of the air carrier licensing regime amongst licence holders and the public | <ul style="list-style-type: none"> ➤ Published enhanced guidance note on ownership and control requirements ➤ Issued licence discs to all helicopter and small aircraft operators |
| Continue to license and monitor groundhandling companies | ➤ Renewed nine approvals |
| Continue to administer the licensing and bonding scheme for travel trade companies in Ireland | ➤ 286 licenses issued and 13 companies visited to assess compliance |
| Prepare for the potential impact of European legislation on the workings of the current travel trade regime in Ireland | ➤ Developments deferred |

Air Passenger Rights

| 2011 Goal | 2011 Outturn |
|--|--|
| Ensure compliance with EU laws concerning passenger rights | <ul style="list-style-type: none"> ➤ 972 new complaints received, 423 for counterpart enforcement bodies ➤ 433 complaints investigated and concluded ➤ 9 airports inspected |
| Increase public awareness of air passenger rights issues | <ul style="list-style-type: none"> ➤ Launch of new flightright.ie website ➤ Participated in Holiday World fair in Dublin |

Key Performance Indicators

| Performance Indicator | 2011 Performance |
|---|------------------|
| Licensing | |
| Licence applicants notified of missing documents within a week | 98% |
| Licence applicants receiving a decision in principle within a month | 81% |
| Licences issued within two weeks of all documents being received | 85% |

| | |
|--|------|
| Number of licensees' premises visited | 13 |
| Claims and Repatriations | |
| Number of claims received following travel-trade collapses | 0 |
| Number of claims processed within two months | n.a. |
| Number of claims processed within four months | n.a. |
| Number of claims processed within six months | n.a. |
| Administration costs as a percentage of total claims costs | n.a. |
| Number of passengers repatriated | 0 |
| Passengers awaiting repatriation after scheduled return date | n.a. |
| Passengers awaiting repatriation for more than a week | n.a. |
| Consumer Protection | |
| Preliminary reviews of complaints completed within a week | 65% |
| Complaints referred to another NEB within a month of receipt | 79% |
| Investigations completed within three months of receipt ³ | 31% |
| Investigations completed within seven months of receipt ⁴ | 50% |
| Number of airport inspections | 9 |
| Costs | |
| Annual change in Commission costs | -15% |
| Annual change in Commission costs (excluding legal fees, airport coordination and claims processing costs) | -10% |

³ For complaints received between 1 January and 31 October 2011.

⁴ For complaints received between 1 January and 31 July 2011.