

29 April 2016

**Ms Cathy Mannion**  
**Commissioner**  
**Commission for Aviation Regulation**  
**3<sup>rd</sup> Floor Alexandra House**  
**Earlsfort Terrace**  
**Dublin 2**  
**Email: [info@aviationreg.ie](mailto:info@aviationreg.ie)**

*By email only***Re: Interim Review of the 2014 Determination – Northern Runway**

Dear Ms Mannion,

I refer to the DAA's recent announcement that it will require €320m to fund the development of the northern runway. This is over €70m higher than the €247m capex allowance that CAR permitted in the 2014 Determination, and a 30% cost over-run even before the project has commenced!

Paragraph 7.77 of the Determination states that CAR will “*use a 50/50 mechanism to share the risk of over or under-spends between DAA and the users*”. This principle of 50/50 “risk-sharing” does not exist in competitive markets, and is a prime example of regulatory gaming that results in over-specification and excessive prices for airport users and consumers. Airports that operate in competitive markets are incentivised to incur capex on a cost efficient basis as this leads to lower airport charges and rewards airports through passenger growth and increased non-aeronautical revenues. On the contrary, the DAA, under this 50/50 “risk-sharing” mechanism, is allowed to recover from users 50% of its inefficient expenditure and charge monopoly profit on it in order to fund the other 50% that in theory is a DAA risk. In practice, there is no risk for the DAA in this arrangement: it either spends less than the regulatory allowance and recovers from users 50% of the money it did not spend, or it spends more than the regulatory allowance and charges a monopoly profit on 50% of this overspend. This “risk-sharing” can only be properly considered in the context of the DAA's projected overspend of €70m, as this mechanism was never envisaged to be employed in situations of a 30% over-spend but was instead designed and put in place to deal with minor over- and underspends. As such, the rationale behind, design and application of this mechanism was not sufficiently addressed at the time of the Determination, and we therefore request that this 0/100 “risk-sharing” mechanism be subject to an interim review, so as to remove it from the regulatory structure, thus replicating the effects of competition at DUB.

In its 2014 CIP, the DAA proposed that the northern runway be “*3,110m to accommodate direct non-stop services to destinations currently out-of-reach of the existing runway, namely to developing economies in Far East Asia and South America*”. 85% of current DUB traffic requires

a runway length of only 2,100m, and runway 10/28, which is of 2,637m in length, is capable of supporting the remaining 15% of DUB traffic. The proposed northern runway therefore only needs to be of 2,100m in length to accommodate current airport users' operations. If, however, the DAA wishes to build a new runway that is 1,010m longer than current users' requirements, on the claimed basis that this will support "*direct non-stop services to destinations currently out-of-reach*", then the DAA should incur the entire risk of such an investment, and recoup the cost of this additional runway length from future airport users that will serve these currently out-of-reach destinations. This could be achieved if, for example, the costs and revenues resulting from this additional runway length were included in a separate regulatory till, which would be funded by these future airport users, and would be consistent with the behaviour of airports that operate in competitive markets. As these issues regarding the length of the northern runway were not considered in the Determination, we request that they be subject to an interim review.

Furthermore, in respect of the DAA's claim that it requires an extra €70m to procure the northern runway (in addition to the €247 northern runway capex allowance permitted in the 2014 Determination), the DAA has failed to justify this additional €70m capex. In order to ensure that the DAA procures the northern runway in the most cost efficient manner possible, an interim review should examine whether this additional €70m is required, and whether it is justified. It is essential that this examination involve detailed engagement between the DAA and airport users. This will ensure that the northern runway meets users' requirements and does not involve unnecessary gold-plating.

Finally, we request that an interim review consider further measures to ensure that the DAA proceeds with the northern runway in the most cost efficient manner possible, with minimum effect on airport charges. For example, the DAA could be obliged to involve users in the preparation of terms of reference for a tender for the construction of the northern runway, once the project's specifications have been agreed with airport users.

Should you wish to discuss the above, please do not hesitate to contact me.

Yours sincerely,



Juliusz Komorek

*Chief Legal & Regulatory Officer*