

On 28 October 2015 the Commission for Aviation Regulation received an application from Dublin Airport for approval of the fees it charges for rental of baggage hall desks at Dublin Airport. The proposed fee is €4,635 per linear meter per annum.

Under Regulation 14(3) of Statutory Instrument 505 of 1998, the DAA must seek approval in advance from the Commission where it collects a fee in respect of an airport installation.¹

The Commission notified Dublin Airport that fees collected for the rental of desks in the baggage halls should be considered ATI fees and should be approved by the Commission. The proposed fee is not an increase on what is currently charged for the Baggage Hall Desks.

The Commission will now assess this application; prior to completing this assessment we invite submissions from interested parties.

The decision to approve such charges depends on whether the Commission is satisfied that four criteria are met:

- Relevancy
- Objectivity
- Transparency
- Non-discrimination

Prior to submitting its application to the Commission, Dublin Airport held a consultation with users on the proposed fee. Interested parties were invited to attend a consultation meeting on 30 September 2015. The Commission was represented at the meeting. No users attended. Written comments were invited by Dublin Airport but none were received.

Users should note that the total amount collected by Dublin Airport under ATI fees is capped in the 2014 Determination of the Maximum Level of Airport Charges at Dublin Airport at €2.2m per year.² Therefore, the collection of this fee will not lead to double accounting whereby users may have been concerned they were covering the costs of the installation via Airport Charges in addition to via the direct fee for the installation. Any amounts collected above this cap will be returned to users in 2020 via airport charges.

Annexed to this note are Dublin Airport's application and Dublin Airport's summary of the consultation it held with users.

The Commission would like to hear the views of interested parties on Dublin Airport's proposed fee. It would be useful if you group your comments under the above headings. Responses should be marked "Baggage Hall Desks Consultation" and set by email to info@aviationreg.ie or to the postal address below. The closing date for receipt of submission is 5pm, 18 November 2015. It is the intention of the Commission to publish responses received.

¹ Statutory Instrument 505/1998 "The European Communities (Access to the Groundhandling Market at Community Airports) Regulations 1998"

² http://www.aviationreg.ie/_fileupload/2014final/2014%20Final%20Determination.pdf

Application to CAR for ATI Fee Approval of Baggage Hall Desk Rental Income

1. Application for ATI fee approval

In compliance with Section 14(3) of S.I. 505 of 1998¹ daa wishes to apply to the CAR for approval of an ATI fee for baggage hall desk rental. This document should be considered as constituting formal application for approval of an ATI fee for baggage hall desk rental income of €4,635 per linear metre per annum. This application follows completion of a consultation with users on the baggage hall desk rental charge at Dublin Airport in which users did not express any disagreement with the charge level proposed for approval.

2. Requirements for the Setting of Charges for Centralised Infrastructure as per EU Directive 96/67/EC

The following criteria are set out in the 1996 EU Ground-handling Directive for the setting of fees 'where access to airport installations gives rise to the collection of a fee'; relevance, objectivity, transparency and non-discrimination.

- **Relevance** – the fees are logically connected to what is being provided in consideration of the fee. In this case, the fee is being charged for baggage hall desk infrastructure to which access is being granted. The fee does not include any extraneous items or costs which are not reasonably related to baggage hall desk infrastructure. It is the visibility of the baggage hall desk within the baggage hall which is of importance and hence why it is the 'frontage' i.e. the linear metres of the baggage desk which is used to calculate the fee per desk.
- **Objectivity** - the fee is set in a fair and balanced manner undistorted by any prejudice on the part of daa. The current fee level, proposed for the CAR's approval, is consistent with daa's statutory responsibilities to meet its financial obligations, conduct its affairs in a cost-effective manner and make a reasonable profit.
- **Transparency** – the criteria on which the fee is based has been made available and explained to users and full cost breakdown was supplied to CAR on 17 September 2015. This is consistent with the approach previously adopted with regard to the ATI fee approved for the check-in desks (see CP1/2008). The precepts underpinning the charging policy have been set out clearly, the proposed fee has been notified to users and the final fee will be published (subject to the approval of the CAR) in the Dublin Airport Miscellaneous Charges Booklet for 2016.
- **Non-discrimination** - identical or comparable situations must not be treated differently. In this regard, the current fee for baggage hall desk infrastructure rental is applied to all users equally.

We contend that the baggage hall desk rental fee level proposed by daa in this application meets all of these criteria.

¹ Implementing the European Council Directive 97/67/EC

3. Baggage Hall Desk Rental Charge Consultation

On 16 September 2015, daa issued a consultation paper (attached as Appendix 1) to airport users on the proposal to submit an application to CAR for ATI fee approval of the current baggage hall desk rental charge of €4,635 per linear metre. Details contained in the consultation paper included:

1. The reason for consultation regarding rental fees for baggage hall desks at Dublin Airport
2. Clarification on how the setting of the baggage hall desk ATI fee meets the criteria of relevance, objectivity, transparency and non-discrimination
3. A breakdown of costs associated with the provision of baggage hall desks at Dublin Airport
4. Clarification that there was no proposal to increase the fee level for baggage hall desk rental currently, or to the end of the regulatory period 2015-2019
5. The current reporting structure of these fees as commercial property revenue with the headline category of commercial revenues and proposed reclassification of this income

On 30 September 2015 daa held a consultation meeting on the baggage hall desk ATI fee proposal which was open for all airport users to attend. Two representatives from the CAR were in attendance but no airport users attended the consultation meeting.

On 1 October 2015 daa issued an update on the baggage hall desk consultation confirming that no ground-handlers attended the consultation meeting and that no queries had been raised regarding the consultation paper. daa allowed until 9 October 2015 for airport users to submit written comments in relation to the consultation. No final written comments were received from users in response to this consultation.

On 23 October 2015 daa issued a final response to the consultation indicating that daa intended to apply to the CAR for fee approval at €4,635.

User response to consultation

No responses were received to the consultation on the baggage hall desk rental charge. No user disagreed with the proposed change in structure of the baggage hall desk rental charge or the proposal by daa to apply to the CAR for ATI fee approval of this charge. Lack of response during the consultation process has been interpreted by daa as tacit agreement, as outlined in the memo received from the CAR on 29 January 2008 regarding 'Groundhandling Access Fees'.

4. Costs Associated with the Provision of Baggage Hall Desks at Dublin Airport

daa proposes the current annual rental fee of €4,635 per linear meter for baggage hall desks, for approval. The current cost structure for baggage hall desks results in a substantial under-recovery in relation to costs for the provision of this infrastructure. The current charge amounts to approx. 25% of the current costs being recovered through this charge. The full cost breakdown was supplied to the CAR on 17 September 2015 and is attached again for completeness as Appendix 2.

daa is proposing the current fee as the basis for the approval application for the following reasons:

- 1) The infrastructure is currently being charged at this rate;
- 2) In the most recent decision relating to ATI fees at Dublin Airport – CP1/2008, CAR approved an annual charge of €25,000 per check-in desk which was a recovery of less than the

recognised costs for provision of these facilities (~46% cost recovery). In making this decision CAR cited the following which we believe are also relevant in this case:

- a. The relevant costs in accessing an airport installation fee were those costs without which the installation would not exist, namely capital costs, utility costs and certain operating costs without which the installation could not operate.
- b. Depreciation based on the capital stock was relevant to the provision of access to the installation (check-in desks)
- c. The logic of recovery of a return on capital was accepted.
- d. Operating costs which are relevant to providing the installation the subject of the access fees are relevant when setting access fees.
- e. Dublin Airport Authority is entitled to recover from ground-handlers seeking access to an airport installation access fees based on the costs incurred by it in providing the installation to ground-handlers.
- f. That the Commission analyses and takes into account the DAA's costs, amongst other things, when setting maximum levels of airport charges at Dublin Airport is a separate matter entirely to the approval of access to installation fees.

and we therefore consider the current fee consistent with the stated CAR position on appropriate levels of ATI fees.

- 3) This application seeks a cost recovery of ~25% which is less than that previously allowed for the check-in desks; daa is seeking to regularise the position of this charge rather than a revision to this charge – for this reason we are proposing that the current charge be approved although it represents a lower cost recovery percentage.

5. Treatment of Baggage Hall Desk Rental Income for the Current Determination Period

Assuming the ATI fee application for baggage hall desks is approved (at the daa proposed level or as potentially amended by CAR); we would intend to reflect this changed classification in our regulated entity accounts from 2020. The price cap for 2015-2019 was calculated with baggage hall desk fees reported in the 'rental of floor area' sub-category of the commercial revenues. We consider it appropriate to remain consistent in the reporting treatment of this income stream over the same period, as to do otherwise would see the 2015-2019 commercial revenue forecast include a revenue stream which daa is unable to recover (due to the ATI fee cap).



16 September 2015

Dear Airport User,

Re: Consultation Process on Current Baggage Hall Desk Rental Charge at Dublin Airport

Please see attached consultation paper regarding daa's proposal to submit an application to CAR for ATI fee approval of the current baggage hall desk rental charge.

The timeline for this consultation process is set out below.

Action	Date
Consultation paper issues	16 September 2015
Consultation meeting	30 September 2015 2pm Seán Lemass Room, T1
daa to issue record of consultation meeting	2 October 2015
Deadline for clarification requests	9 October 2015
daa to respond to any outstanding clarification requests	16 October 2015
Deadline for final written comments from users	23 October 2015
daa to issue response to consultation including the baggage hall desk rental charge for which application will be made to CAR for approval	30 October 2015
daa to apply to CAR for approval of an ATI fee for baggage hall desk rental at the level specified in the response to consultation	30 October 2015
<i>Potential CAR-initiated consultation on the daa fee approval application</i>	<i>Nov/Dec 2015 (if initiated)</i>
CAR decision on daa fee application	As determined by CAR

daa looks forward to an open and constructive consultation process, and would encourage all users to participate fully. We request that all correspondence in relation to this consultation be addressed to apc-er@daa.ie.

Yours sincerely,

Valerie Ní Fhaoláin
Head of Economic Regulation

APPLICATION TO CAR FOR ATI FEE APPROVAL
OF THE BAGGAGE HALL DESK RENTAL
CHARGE- DUBLIN AIRPORT

USER CONSULTATION

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1. Executive Summary

daa wishes to regularise the position of the rental fee for baggage hall desks at Dublin Airport as these facilities have been determined by CAR to constitute centralised infrastructure for the provision of ground-handling services¹. Fees charged by airport management bodies for use of centralised infrastructure are considered to be ‘access to installation’ (ATI) fees and are governed by certain conditions which are laid out in the 1996 EU Ground-Handling Directive². In order to determine whether these conditions are satisfied by charges set for centralised infrastructure, CAR requires Dublin Airport to apply for approval for ATI fees. In this regard, we are now consulting with our airport users on making an application to CAR for approval of the current baggage hall desk rental fee level as the appropriate ATI fee for this facility.

We propose to apply to CAR for approval of the current annual rental fee for baggage hall desks of €4,635 per linear metre, which is charged to all ground-handlers renting baggage hall desk(s). There is currently 16.4 linear metres of baggage hall desk frontage in Dublin Airport, across both terminals, which is leased in various proportions by a number of ground-handlers.

There is no proposal to increase the fee level for baggage hall desk rental currently, or to the end of the regulatory period 2015-2019.

2. Background

In 2007, as part of a consultation on a proposed increase in the check-in desk charge (ATI fee) daa sought clarity as to whether baggage hall desks (and proprietary self-service kiosks) were considered centralised infrastructure for the provision of ground-handling services, as per the definition set out in the 1996 EU Ground-handling Directive. In correspondence with daa CAR indicated that they believed that baggage hall desks would have similar characteristics to check-in desks and therefore it would be appropriate to treat these facilities in a similar manner³ (i.e. as centralised infrastructure). In March 2008, in CP1/2008, CAR granted approval for an ATI fee increase for check-in desks. In April 2008, in CN3/2008, CAR stated that SSKs were not considered centralised infrastructure. No further actions arising from this consultation were undertaken at this juncture.

It is likely that we will shortly be consulting on proposed charges for the provision of CUTE / CUSS (common user self-service kiosks and self-bag drop) facilities at Dublin Airport. This project has given

¹ As defined in EU Directive

² <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31996L0067&from=EN>

³ “.. the pertinent question is whether desks in the Baggage Hall dedicated to Groundhandling functions, ought be regarded in the same manner as check-in desks in the Departures area which are used for Groundhandling functions. On the face of it, strong similarities exist. It would appear that similar costs are involved for the airport authority in providing and maintaining these desks. Also, given that many of the activities taking place at these desks would appear to fall under the ‘passenger handling’ activity of Schedule I to the Groundhandling Regulations (in addition to baggage tracing/damaged bags, the activities taking place at these desks also extend to check-in and dealing with transfer passengers), we are of the opinion that any rental charges applicable to these desks would fall to be considered in the context of the access fee provisions of the Groundhandling Regulations.” Extract from correspondence from Louise O’Dwyer (CAR) to Miriam Ryan (daa) dated 7 July 2007.

rise to discussion with CAR as to whether CUSS facilities are to be considered centralised infrastructure. This discussion has brought to our attention that we should finalise the formalisation of baggage hall desk charges as ATI fees.

3. Reporting of Baggage Hall Desk Rental Income

The Headline Category of Commercial (non-aeronautical) Revenues at Dublin Airport is broken down into a number of categories and sub-categories in our accounting and reporting systems.

Headline Category	Category	Sub-Category
Commercial Revenues	Retail	>>>>>>
Commercial Revenues	Car parking	>>>>>>
Commercial Revenues	Commercial Property	ATI fees
Commercial Revenues	Commercial Property	Income from Commercial Concessions
Commercial Revenues	Commercial Property	Rental of Office Accommodation
Commercial Revenues	Commercial Property	Rental of floor area for proprietary SSKs, baggage hall desks etc.
Commercial Revenues	Other	CBP, VIP etc.

Fees arising from baggage hall desk rentals have, to date, been recorded under commercial property revenues but not within the ATI fee sub-category. Assuming CAR approve the ATI fee application for baggage hall desks to follow this consultation (or as amended by CAR) we would intend to reflect this changed classification in our regulated entity accounts from 2020. The price cap for 2015-2019 was calculated with baggage hall desk fees reported in the 'rental of floor area' sub-category and so we would consider it appropriate to remain consistent in the reporting treatment of this income stream over the same period.

There is no proposal to increase the fee level for baggage hall desk rental currently, or to the end of the regulatory period 2015-2019.

4. Costs Associated with the Provision of Baggage Hall Desks at Dublin Airport

daa recently carried out a detailed cost analysis of the baggage hall desks. This analysis showed the cost of a baggage hall desk to be €19,351 per annum.

The costs associated with baggage hall desks include:

- Provision, maintenance and cleaning of furniture and equipment
- Outgoing oversize baggage handling systems
- Energy
- Staff costs associated with the desk allocation function
- Indirect costs attributable to baggage hall desk facilities

Costs Associated with Baggage Hall Desks	Linear Metres	€
Annual Depreciation Costs on Fixed Assets (Baggage Hall Related)		152,488
Return on Capital Employed (5.8%)		114,754
Operating Costs (Allocations)		
Baggage Hall Operating Costs		21,374
Energy Costs		28,744
Total Cost per Annum		317,360
T1 Bag Desks (linear metres)	8.00	
T2 Bag Desks (lm)	8.40	
Total Dublin Airport	16.40	
Annual cost of baggage hall desk per linear metre		19,351

Note: the current fee is substantially below the calculated cost.

5. Requirements for the Setting of Charges for Centralised Infrastructure as per EU Directive 96/67/EC

The following criteria are set out in the 1996 EU Ground-handling Directive for the setting of fees for centralised infrastructure at airports (ATI fees): relevance, objectivity, transparency and non-discrimination. We contend that the baggage hall desk infrastructure rental fee level proposed by daa in this consultation paper meets all of these criteria:

- **Relevance** – the fees are logically connected to what is being provided in consideration of the fee. In this case, the fee is being charged for baggage hall desk infrastructure to which access is being granted, and does not include any extraneous items or costs which are not reasonably related to baggage hall desk infrastructure.
- **Objectivity** - the fee is set in a fair and balanced manner undistorted by any prejudice on the part of daa. The current fee level, proposed for CAR’s approval, is consistent with daa’s statutory responsibilities to meet its financial obligations, conduct its affairs in a cost-effective manner and make a reasonable profit.
- **Transparency** – the criteria on which the fee is based are being made available and explained, and are consistent with the approach previously adopted with regard to the ATI fee approved for the check-in desks (see CP1/2008). The precepts underpinning the charging policy are set out clearly above, the proposed fee is being notified to users and the final fee will be published, subject to the approval of CAR, in the Dublin Airport Miscellaneous Charges Booklet for 2016.

- **Non-discrimination** - identical or comparable situations must not be treated differently. In this regard, the current fee for baggage hall desk infrastructure rental is applied to all users equally.

6. Proposed ATI Fee for Baggage Hall Desk Rental

daa proposes the current annual rental fee of €4,635 per linear meter for baggage hall desks for approval. Given the current cost structure for baggage hall desks this fee level results in a substantial under-recovery in relation to costs for the provision of this infrastructure, with approx. 25% of the current costs being recovered through this charge.

daa is proposing the current fee as the basis for the approval application to CAR for the following reasons:

- The infrastructure is currently being charged at this rate;
- The purpose of this consultation is to arrive at an agreed basis to allow daa to make an application to CAR for ATI fee approval rather than to seek approval to revise the current charging structure. **There is no proposal to increase the baggage hall desk rental fee;**
- In the most recent decision relating to ATI fees at Dublin Airport – CP1/2008, CAR approved an annual charge of €25,000 per check in desk which was a recovery of less than 46% of the recognised costs for provision of these facilities. In making this decision CAR cited the following which we believe are also relevant in this case:
 - The relevant costs in accessing an airport installation fee were those costs without which the installation would not exist, namely capital costs, utility costs and certain operating costs without which the installation could not operate.
 - Depreciation based on the capital stock was relevant to the provision of access to the installation (check-in desks)
 - The logic of recovery of a return on capital was accepted.
 - Operating costs which are relevant to providing the installation the subject of the access fees are relevant when setting access fees.
 - Dublin Airport Authority is entitled to recover from ground-handlers seeking access to an airport installation access fees based on the costs incurred by it in providing the installation to ground-handlers.
 - That the Commission analyses and takes into account the DAA's costs, amongst other things, when setting maximum levels of airport charges at Dublin Airport is a separate matter entirely to the approval of access to installation fees.

And we therefore consider the current fee consistent with the stated CAR position on appropriate levels of ATI fees.

7. Request for Submissions from Users

Dublin Airport welcomes the views of users in regard to the baggage hall desk infrastructure charging level as outlined above. In this context we request that users' written submissions be sent to us on or by 23 October 2015 in order to ensure that your comments are considered. We will review the baggage hall desk fee proposal we will submit to CAR for approval in light of users' submissions received. We will issue a response to this consultation on 30 October 2015, and we

intend to submit an application to CAR under section 14(3) of Statutory Instrument 505⁴ for approval of an ATI fee for baggage hall desk rental immediately thereafter.

⁴ *“Where access to airport 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 accordance with relevant, objective, transparent and non-discriminatory criteria”*