



# **‘Substantial Grounds’ for an Interim Review of the 2005 Charges at Dublin Airport**

**Commission Paper CP6/2006**

**Bridin O’Leary**

## Legislative Basis for a Review of a Determination

Subsection 32 (14)(a) of the Aviation Regulation Act, 2001 as amended by the 2004 Act:

“The Commission may after the making of a determination –

- (i) at its own initiative, or
- (ii) at the request of an airport authority or user concerned in respect of the determination,

if it considers that there are substantial grounds for so doing, review the determination and, if it sees fit, amend the determination.”

## Summary of CP6/2006

- ≡≡≡ The most recent Determination was published on 29 September 2005
- ≡≡≡ The Commission indicated that it *might* be appropriate to review the 2005 Determination once the final Capital Investment Plan (CIP) was considered
- ≡≡≡ At the time of the previous Interim Review (in 2004) 'substantial grounds' was interpreted as what would be consistent with the Commission's statutory objectives
- ≡≡≡ The Commission continues to interpret 'Substantial Grounds' as consistent with statutory objectives, which is seen by the Commission as being the promotion of economic efficiency.

- ≡≡≡≡≡≡ An expectation for interim Reviews could reduce the power of incentives to promote efficiency

- ≡≡≡≡≡≡ Presumption against holding Reviews other than

- ≡≡≡≡≡≡ in exceptional circumstances

- ≡≡≡≡≡≡ outside the control of the DAA

- ≡≡≡≡≡≡ Where the financial or other effects would compromise the achievement of the statutory objectives

The Commission has considered that

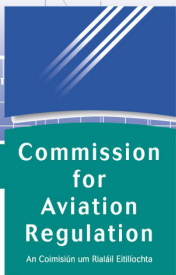
- ≡≡≡≡ The circumstances whereby the DAA was unable to provide a finalised CIP prior to statutory deadline for the 2005 Determination **appear to** meet the criterion of substantial grounds
- ≡≡≡≡ The degree to which airline users of Dublin Airport have reviewed their anticipated requirements for airport facilities such that the DAA have developed a larger capital programme may meet the criterion of substantial grounds

It is important to be clear that a decision to hold an interim review is separate from a decision about whether to revise a price cap.

## Scope for a Review

Consider the data and arguments that the Commission had in Sept. 2005 *except* that the 2006 DAA investment plan would be substituted for the May 2005 investment plan

Matters that were thoroughly addressed for the Sept. 2005 Determination do not appear to meet the threshold for Substantial Grounds for a Review



# Submissions

The Commission requests interested parties to submit responses by  
**12 noon on Thursday, 28 September 2006**

Submissions should be addressed to:

**Ms. Anne Moloney**  
**Commission for Aviation Regulation**  
**Floor 3 Alexandra House**  
**Earlsfort Terrace**  
**Dublin 2**

Fax to 00-353-1-6611269  
Email to [info@aviationreg.ie](mailto:info@aviationreg.ie)

## Industry submissions on CP6/2006 by 28 September should...

- =====  
=====  
===== Concentrate on issues raised in Consultation Paper
  
- =====  
=====  
===== Assist Commission by advocating one's position in terms of
  - =====  
===== the three-part objective of the Commission, or
  - =====  
===== the due-regard statutory factors
  
- =====  
=====  
===== Support the arguments of the submissions with facts and figures



**The Commission's position on the concept of "substantial grounds" and its applicability to the proposed interim review is set out comprehensively in its consultation paper CP6/2006, published on 4 September 2006.**

**Nothing in this presentation supersedes the contents of that document.**