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Cathal Guiomard,
Head of Economic Affairs,
Commission for Aviation Regulation,
36 Upper Mount Street,
Dublin 2

Friday 25th January 2002

Notice of the Commission relating to the Decision of the Appeal Panel

Dear Cathal,

British Airways welcomes the opportunity to submit a response to the Commission for Aviation Regulation following the decision by the Aviation Appeal Panel. We hope this process will allow the commission to clarify a number of issues raised surrounding the determination on airport charges dated 26th August 2001 and where appropriate adjust the price cap.

The issues British Airways would like to raise are as follows ;

1. Off-peak 'Landing and Take Off' charges and aircraft categorisation

British Airways welcomes the Appeal Panels recommendation that this part of the regulation be reviewed. We would request the Commission review the whole issue of 'Off peak' charging and whether it should form part of the price cap calculations and not just the over complicated aircraft categorisation. On the subject of aircraft categorisation BA support the views of BMI and the panel within the decision document.

The introduction of the highly complex 'off peak' pricing scheme by the commission seems to contradict the policy that Aer Rianta is ultimately responsible for organising the pricing structure within the price cap. British Airways believe the structure of charges should be the responsibility of Aer Rianta in consultation with the airport users. If Aer Rianta believe there is a requirement for 'off peak' pricing at its airports then this should be a matter to be discussed between the airport and the users.

2. Passenger Numbers / Forecasts within the Price Cap calculation

British Airways are concerned that there seem to have been a number of oversights on the passenger figures used within the price cap calculation, this has lead to a great deal of uncertainty surrounding this critical part of the determination.

British Airways request that the commission use this review to clarify the following ;

- What types of passenger are included within the passenger forecast to calculate the price cap plus the actual passenger figures used to calculate the actual revenue yield per passenger.

- What the actual passenger forecasts are for calculating the price cap and the source of this data.

British Airways believe that transfer and transit passengers should be identified and included within the price cap passenger forecasts and not be exempt from regulated airport charges as they are using infrastructure and services paid for by regulated airport charges.

British Airways would also suggest that a great deal of the confusion surrounding this and other parts of the regulation is due to the regulatory years commencing on the 24th September. We recommend bringing the regulatory period in line with the calendar year, this would act to align the regulation with standard reporting timescales and ease the regulatory process for users, Aer Rianta and possibly the regulator.

3. Security Surcharges

British Airways welcomes the panels decision that this important aspect of the regulation be reviewed. The issue of whether the costs of HBS operation are included within the current regulatory price cap needs to be clarified. Due to operational requirements a number of operators including British Airways are planning to start and pay for using the HBS facility at Dublin airport not knowing whether these costs are covered in the regulated airport charges they are also paying.

This matter raises the important issue of exactly what facilities and services are provided for by the regulated airport charges. This transparency is essential to users of Aer Rianta airports and we urge the commission to clarify not only the HBS issue but all other facilities and services that are covered by regulated airport charges and that this reconciles with the pricing policy of Aer Rianta.

In the event of the Irish Government not paying the unexpected additional security costs that could result from the events of September 11th we would ask the commission to clarify the exact procedures of how this will be handled within the price cap regulation.

4. Other issues relating to the price cap regulation

On the issues relating to Efficiency, OPEX and Depreciation British Airways support the views of the panel and the issues raised by the appellants. We hope the Commission use this opportunity to fully clarify each situation and adjust the price cap accordingly to reflect any findings. We would assume the same for the 'Communication from Commission' issues referred to.

5. Interest Payments

British Airways agree with the view of the panel that there is an 'anomaly' in the approach of Interest Payments, in that they are allowed for Aer Rianta in the result of an under recovery but not in the repayment to users for an over recovery. We would add to the arguments already recorded in the panels decision that in an over recovery situation the airport has enjoyed the additional cash-flow benefits from the over recovered revenue throughout the year. British Airways would ask for consistency in the approach of interest payments in the event of over and under recovery situations.

If you require any further information regarding the above please feel free to contact me.

Yours Sincerely,

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