



The Competition Authority
An tÚdarás Iomáíochta

Submission of The Competition Authority
to
The Commission for Aviation Regulation
on
the Making of a New Determination of Maximum Airport Charges.

Submission No: S/04/006

Date: October 2004

1. The Competition Authority welcomes the opportunity provided by the Commission for Aviation Regulation's consultation (Commission Paper CP7/2004). Our comments are limited to the interpretation of the overarching objectives that now apply to the Commission for Aviation Regulation (CAR) on making the determination of maximum airport charges, following the amendment of the Aviation Regulation Act, 2001 by the State Airports Act, 2004. The relevant amendment is described below:

Aviation Regulation Act, 2001	Amendment set out in the State Airport Act, 2004
The Commission shall aim to facilitate the development and operation of cost-effective airports which meet the requirements of users	<p>The objectives of the Commission are as follows –</p> <ul style="list-style-type: none"> a) to facilitate the efficient and economic development and operation of Dublin Airport which meet the requirements of current and prospective users¹ of Dublin Airport, b) to protect the reasonable interests of current and prospective users of Dublin Airport in relation to Dublin Airport, and c) to enable Dublin Airport Authority to operate and development Dublin Airport in a sustainable and financially viable manner
<p>¹ defined as any person " a) for whom any services or facilities the subject of airport charges are provided at Dublin Airport, b) using any of the services for the carriage by air of passengers or cargo at Dublin Airport, c) or otherwise providing goods and services at Dublin Airport".</p>	

2. In applying the 2001 Act for its first determination, the CAR equated its statutory objective with the promotion of productive, dynamic and allocative efficiency on the grounds that economic regulation should be guided by the following principles:
 - i) well-functioning competitive markets are characterised by productive, dynamic and allocative efficiencies, and
 - ii) regulators responsible for the regulation of market power seek to emulate the workings of competitive markets.
3. The pursuit of productive, dynamic and allocative efficiencies should remain CAR's approach to the regulation of the Dublin Airport Authority in following objectives a) and b) as well as c) of the amended legislation.

4. The consumption of the services subject to regulation (e.g. landing and parking of aircraft) drives the demand for other goods and services in the airport. As a consequence, focussing primarily on the interests of those actually paying the airport charges (both currently and prospectively) will also ensure that the interests of other airport users are met. That is, the airlines' goal is to maximise the number of passengers they fly into and out of an airport, both in the short term and the longer term; and thus their interests are in line with the interests of airport suppliers (to have the highest possible number of customers). To attain their goal, airlines must seek (low) airport charges which attract passengers and thus their interests reflect passengers' interests.
5. Objectives a) and b) are directly pursued when the determination of maximum airport charges aim at achieving productive, dynamic and allocative efficiencies. Objective c) is also met for the reasons outlined in dotecon's report, namely:
 - An obligation on a regulator to enable a regulated firm to operate in a sustainable and financially viable manner does not imply that the firm cannot be allowed to go bankrupt as a result of inefficiency and mismanagement. If a regulated firm were to operate inefficiently, it would, on the contrary, be in the long-term interests of current and prospective users of its services for it to go bankrupt as a result, so that the existing assets could be taken over by a new and more efficient operator, which would ultimately mean better services at lower prices.
 - In a competitive environment, prices are constrained by competition and cannot simply move up in order to accommodate the need to increase retained earnings to ensure the financing of the airport debt.