

9. ANNEXES

9.1 Annex 1 - Deadline and Process for Receipt of Representations

In paragraph 5.3.2 of Commission Paper CP6/2004, the Commission set out the meaning of deadlines imposed by the Commission in the context of its process leading to a determination on airport charges. That paragraph states that where a date is expressly or impliedly stipulated as a deadline, the closing time for receipt of submissions is 5:00pm on the date in question. In order to ensure that the Commission acts at all times in a fair, transparent and non-discriminatory manner, the Commission is concerned to ensure that all parties making representations in respect of the proposed determination are clear about the meaning of the deadline set for receipt of such representations and the consequences of failing to meet the deadline. The deadline for receipt of representations with respect to the proposed determination on the maximum level of airport charges is 5:00pm on the 1 July 2005 (the "deadline").

Representations should be addressed to:

Mr. Cathal Guiomard,
Head of Economic Affairs,
Commission for Aviation Regulation,
3rd Floor,
Alexandra House,
Earlsfort Terrace,
Dublin 2.

Any party intending to make representations to the Commission on the proposed Determination should note the following conditions, which the Commission will apply with respect to the receipt of representations and the meeting of the deadline.

1. Subject, where applicable, to the specific rules set out in subsection 6 below, the time of receipt of representations by the Commission, whether in electronic form or otherwise, shall be the time when the representations are actually received at, or in, the offices of the Commission whether sent by post, courier, hand delivery, fax, e-mail or otherwise and all references to "received by the Commission" shall be construed accordingly.
2. The onus will be on the party making representations to the Commission to ensure that the representations are received by the Commission on or before the deadline.
3. The Commission accepts no responsibility and will make no allowances for delays or technical faults, which arise otherwise than as a direct result of an act or omission of the Commission, howsoever caused, and which result in representations being received by the Commission after the deadline or which result in part only of the representations being received by the Commission on or before the deadline.
4. Representations, which are received by the Commission after the deadline, will be deemed not to have been received by the Commission and the Commission will not take them into account. If a portion of representations are received by the Commission on or before the deadline and the remaining portion received after the deadline, then only that part received by the Commission on or before the deadline will be taken into account by the Commission. The remaining part will be deemed not to have been received by the Commission.
5. In determining the time at which representations are actually received by the Commission, in accordance with the rules set out in this Annex, the Commission shall use the clock settings, time and date stamps in use in the offices of the Commission for Aviation Regulation, on its fax machine and on its information systems, as appropriate.

6. The Commission envisages that it may correspond with interested parties who have made submissions for clarification or explanation of their submission. Such correspondence is not an invitation to make further submissions.

7. Without prejudice to the generality of the foregoing, the following specific rules shall apply to the following situations: -

(a) Post

Representations sent to the Commission by post shall be deemed to have been received by the Commission at the time when they were delivered by An Post to the offices of the Commission for Aviation Regulation at 3rd Floor, Alexandra House, Earlsfort Terrace, Dublin 2. In the event of any disagreement as to this time, the time at which the Commission received the representations will be deemed to be the time at which they are delivered by An Post unless the party sending the representations can prove otherwise.

(b) Courier or Hand Delivery

Representations sent to the Commission by courier or hand delivery shall be deemed to have been received by the Commission at the time when they were delivered by the courier company or the person effecting hand delivery to the offices of the Commission for Aviation Regulation at 3rd Floor, Alexandra House, Earlsfort Terrace, Dublin 2. In the event of any disagreement as to this time, the time at which the Commission received the representations will be deemed to be the time at which they were delivered by the courier company or the person effecting hand delivery unless the party sending the representations can prove otherwise.

(c) Fax

The Commission will be deemed to have received representations sent by fax at the time of receipt by the Commission of the last page of the fax transmission containing the representations. In the event that the Commission starts to receive a fax transmission prior to the deadline and the fax transmission is not completed until after the deadline, the Commission will only be deemed to have received that portion of the transmission sent on or before the deadline.

(d) Electronic Mail

The Commission will be deemed to have received representations sent by electronic mail at the time when the electronic mail containing the representations enters the information system, which the Commission has designated for the purpose of receiving electronic communications. In this case the information system represented by the electronic mailing address info@aviationreg.ie is the information system that the Commission has designated for the purpose of receiving electronic communications. No other address of the Commission or its staff should be used.

8. Delivery of Documents

The Commission requests that all written submissions be typed. Submissions sent to the Commission in electronic form either on floppy disk or by e-mail to info@aviationreg.ie should be either in Microsoft Word (".doc") or portable document format ("pdf").

In all cases the sender shall have an obligation to ensure that the information is actually received by the Commission on or before the specified deadline.

9. Information

Having regard to the principles of better regulation, the Commission is concerned to ensure that the process leading to its determination is administered in an open, accessible manner. This is reinforced by the requirements contained in Section 5(4) of the Act that the Commission ensure that its determinations and requests be objectively justified, non-discriminatory, proportionate and transparent. To that end, details of all statutory requests for information by the Commission will be posted on its website.

DAA will be the source of much of the information that will be needed by the Commission to make a determination. It is vital that all interested parties, as well as the public, have sight of all relevant information (subject to the requirements of confidentiality) relied upon by the Commission for the purpose of its determination, otherwise their ability to fully participate in both the initial consultation as well as the statutory consultation could be impeded.

While parties are free to designate part or all of their submissions as confidential (and should do so clearly, as is their obligation) this has the potential to create difficulties for the Commission. If the Commission is to make available the information leading to its determination, then all of the information upon which it relies for the purpose of its determination should, as a general rule, be put into the public domain. As a result, the Commission proposes to counteract any information asymmetry, which may otherwise arise in the following manner:

10. Confidential Information

The Commission acknowledges that circumstances may arise where the disclosure of highly sensitive confidential information may cause damage to the party supplying the information. Clearly, the Commission will have access

to and will analyse all relevant information, but it is also desirable that interested parties and the public have access in turn, to information that is relied upon by the Commission for the purpose of its determination. The Commission has a statutory obligation to give reasons for its determination. Consequently, as a general rule, unless the Commission is able to put all of the information that it is relying on into the public domain, it will be reluctant to rely on that information for the purpose of making its determination. Nonetheless, the Commission is of the view that even where information is regarded as highly sensitive by the disclosing party, it may be possible, whether by means of aggregation or otherwise, to disclose the information in a modified manner. Where justified, the process of aggregation or restatement will be performed by the disclosing party in consultation with the Commission after the Commission has seen all of the information in original form.

11. Use of the Commission's website

As indicated, the Commission proposes to place all of the submissions and representations that it receives in response to requests, on its website. Ordinarily, the Commission will not be editing this material. As a result, the content of any submission is solely a matter for the submitting party, and in that regard, interested parties are referred to the legal notice and indemnity concerning use of the Commission's website which is contained in Annex I to this paper.

LEGAL NOTICE

While the Commission at all times uses its best endeavours to ensure that all of the information on its website is up to date and accurate, the Commission accepts no responsibility in relation to and expressly excludes any warranty or representations as to the accuracy or completeness of the contents of its website.

INDEMNITY

Any party submitting information to the Commission in response to a document inviting submissions acknowledges that the Commission intends to publish that information on the website of the Commission, in reports of the Commission and elsewhere as required or appropriate. Parties submitting such information to the Commission consent to such publication. Any party submitting information to the Commission shall have sole responsibility for the contents of such information and shall indemnify the Commission in relation to any loss or damage of whatsoever nature and howsoever arising suffered by the Commission as a result of publication or dissemination of such information either on its website, in its reports or elsewhere.

Annex 2

Preparation & Evaluation of Dublin Airport Traffic Forecasts, Mott MacDonald, May 2005.

Annex 3

Assessment of the 2003/04 Handling Capacity of Dublin Airport, William Hynes & Associates Ltd, May 2005.

Annex 4

Dublin Airport bottom-up efficiency study Booz Allen Hamilton April 2005

Annex 5

Dublin Airport Authority's Cost of Capital, Colm Kearney & Elaine Hutson, May 2005

Annex 6

Dublin Airport Assessment of commercial revenue 2005-2014, Alan Stratford & Associates, May 2005.

Annex 7

Dublin Airport Authority Capital Investment Programme 2005-2014,
DAA CIP 03 May 2005

Annex 8

The Cost of Capital for the DAA, A Final Report for the DAA, NERA Economic Consultants April 2005.

Annex 9

Dublin Airport Passenger & Aircraft Movements Demand Forecast Report
March 2005

Annex 10

Indicative price cap tables.

Annex 11

The Performance of Dublin Airport: The findings of the Comparative Reports of the TRL and the ATRS.

Annex 12

Dublin Airport Authority Passenger Survey.