



PROPOSAL TO INCREASE TRAVEL AGENTS' AND TOUR OPERATORS' LICENCE FEES

Consultation Paper CP4/2006

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TABLE OF CONTENTS

1.	INTRODUCTION	3
2.	ROLE OF COMMISSION FOR AVIATION REGULATION IN RELATION TO TRAVEL AGENTS AND TOUR OPERATORS.....	3
3.	STATUTORY BASIS FOR LICENCE FEES	4
4.	CURRENT LICENCE FEES.....	4
5.	THE COMMISSION'S FINANCES.....	5
6.	THE CASE FOR LICENCE FEE INCREASES.....	7
7.	THE COMMISSION'S APPROACH TO LICENSING.....	9
8.	RESPONSES TO CONSULTATION	10
9.	NEXT STEPS.....	10

1. INTRODUCTION

This paper sets out a proposal from the Commission to increase and revise application and related fees payable for travel agents' and tour operators' licences.

2. ROLE OF COMMISSION FOR AVIATION REGULATION IN RELATION TO TRAVEL AGENTS AND TOUR OPERATORS

The Commission for Aviation Regulation is charged with the licensing of travel agents and tour operators operating in Ireland in accordance with the Transport (Tour Operators and Travel Agents) Act, 1982, as amended. The statutory licensing regime for the travel trade sector became mandatory in 1984 and was carried out until 2001 by a succession of Government Departments. Section 9 (2) of the Aviation Regulation Act, 2001 transferred to the Commission functions in that regard which had been vested in Ministers under the 1982 Act. The Act makes it obligatory to hold a licence in order to engage in the business of travel agent or tour operator and invests in the Commission enforcement powers and functions against unlicensed trading.

The Act requires that applicants for travel agents' or tour operators' licences must satisfy the licensing authority of the adequacy of their financial, organisational and business resources to operate the business for which they seek a licence. It also provides that each applicant must furnish a bond, based on its expected level of turnover, to the Commission for the protection of customers who purchase travel from it during the period of its licence.

Currently some 320 travel agents and 80 tour operators hold licences from the Commission. These are renewable on an annual basis.

In order to assess eligibility for travel agents' and tour operators' licences, the Commission must assess the adequacy of the financial, business and organisational resources of applicants and the adequacy of the bonds that

they offer as security for their customers. In addition to processing applications for licences, the Commission must assess the continuing eligibility of licence holders during the duration of their licences. This assessment includes a review of licence holders' annual financial statements as soon as possible after the end of the licence holder's financial year and also seeks to ensure the integrity of the system by monitoring turnover of firms holding licences to confirm the continuing adequacy of the bonds held in connection with licences.

3. STATUTORY BASIS FOR LICENCE FEES

Section 12 of the Transport (Tour Operators and Travel Agents) Act 1982 provides that the Commission may, by regulations made with the consent of the Minister for Finance, specify the scale of fees payable in respect of applications for licences.

It also provides that the Commission may make such charges as it considers appropriate in relation to any matter connected with a licence and that such charges shall be determined by it after consultation with the Minister for Finance, and shall be specified in regulations.

4. CURRENT LICENCE FEES

Fees for licences and amendments to licences were most recently set in August 1995 by the Tour Operators (Licensing) (Amendment) Regulations 1995 (S.I. 212 of 1995) and the Travel Agents (Licensing) (Amendment) Regulations 1995 (S.I. 213 of 1995). These came into effect on 1 August 1995. In the intervening (almost eleven) years, there has been no alteration to these fees.

Fees for late submission of accounts by tour operators and the presentation of licence applications less than two months before a licence is required were most recently set in 1993 by Regulation 10 of the Tour Operators (Licensing) Regulations 1993 (S.I. 182 of 1993). These

regulations came into effect on 1 July 1993. There has been no subsequent fee change to date.

Fees for late submission of accounts by travel agents and the presentation of licence applications less than two months before the licence is required were most recently set in August 1995 under the Travel Agents (Licensing) Regulations 1993 (SI 183 of 1993). These were effective from July 1993 and likewise, the fees have remained unchanged in the subsequent decade.

The Regulations provide that travel agents pay a standard application fee irrespective of size, while tour operators pay a graduated fee dependent on their turnover. Revenue from licence fees is dependent primarily, therefore, on a combination of the number of travel agents and tour operators seeking licences and the turnover of the tour operator sector. Secondary factors are the incidence of applicants seeking licences at short notice and of licence holders failing to submit financial statements in a timely manner after the end of their financial year.

The Euro Changeover (Amounts) Act, 2001 effected a minor reduction in the fees set in the 1993 and 1995 Regulations by rounding them down to convenient euro equivalents. These fees are prescribed in Paragraphs 31 and 33 of the Schedule in the Explanatory Memorandum to that Act. The fees are set out in Schedule 1 to this Consultation Paper.

5. THE COMMISSION'S FINANCES

The Commission is obliged to recover the cost of its regulatory activities from the industries it regulates, which include the Dublin Airport Authority, the Irish Aviation Authority, airlines and groundhandlers as well as travel agents and tour operators.

The Commission's costs, in respect of its work in determining airport charges and aviation terminal services charges and in respect of licensing

air carriers and groundhandlers, are financed by levies provided for in Section 23 of the Aviation Regulation Act, 2001.

That Act provides that for the purpose of meeting expenses properly incurred by the Commission in the discharge of its functions under the Act, the Commission shall make regulations imposing a levy to meet but not to exceed the estimated operating costs and expenses of the Commission.

The Commission is careful to identify as accurately as it can the cost of regulating each of these sectors with a view to recovering its expenditure in as cost-reflective, transparent and fair a manner as possible.

The Commission has not set a levy for travel agents and tour operators under the 2001 Act but has opted instead to continue recovering its costs through the licence fee mechanism provided for in the 1982 Act.

Notwithstanding the fact that licence application and other miscellaneous fees for travel agents and tour operators have not been increased since 1993 in some cases or 1995 in others, and indeed have been reduced (rounded down) by the Euro Changeover (Amounts) Act, 2001, the Commission has been able to date to fund its functions under the 1982 Act from those fees. This has been due in part to revenue from two sources other than basic licence fees, viz the supplementary fees paid by travel agent and tour operator licence applicants who seek licences at short notice or have missed deadlines in furnishing annual financial statements. Although revenue from such fees has contributed to funding and in effect avoided any shortfall in the overall revenue requirement, the Commission is of the view that the better policy would be to source the necessary income from a balanced licensing fee regime. It believes that practices such as applying for licences at short notice and failing to comply with obligations to produce financial statements should be deterred.

6. THE CASE FOR LICENCE FEE INCREASES

The consumer price index has risen by approximately 36% since 1995, when the current fees for travel agents' and tour operators' licences were set. In addition, the impact of normal staff remuneration increases and of the deployment by the Commission of resources on the more focused monitoring of licensees' finances and on enforcement measures against illegal operators, has further eroded its capacity to discharge its functions from current licence fee income.

Total revenue to the Commission from licence fees and the other miscellaneous charges in 2005 came to approximately €483,000. The Commission's overheads consist mainly of six full-time staff and part-time financial, legal, management and secretarial input from other staff of the office. Total staff and other costs attributable to the function in 2006, are estimated at €600,000.

The Commission has reviewed the existing licence fees and proposes to introduce a new fee structure with effect from 1 July, 2006.

In doing so, the Commission has considered as options both the imposition of a flat increase across all categories of licence application and the introduction of a standard fee for all applicants irrespective of size. In formalizing its proposals, the Commission has decided not to pursue either course. It believes that the current configuration of licence fees imposes a loading on larger tour operators, which is not fully congruent with the costs involved in regulating them, but it also believes that the introduction of a flat fee for all applicants could place an undue burden on travel agents.

The Commission has therefore decided to make proposals that are designed to

- (a) implement fee increases that can be anticipated to generate the revenue needed to run the licensing service;

- (b) rebalance somewhat the loading against larger tour operators as opposed to travel agents, in order for fees better to reflect the respective costs of licensing tour operators and travel agents;
- (c) abolish a special charge for 'new' applicants who did not hold licences in the past two years. This is proposed on the basis that these charges could be construed as a barrier to entry;
- (d) seek to deter both last-minute licence applications, and tardiness on the part of licence holders in presenting accounts within a reasonable time after the end of their financial year, by increasing the surcharges paid by such applicants;
- (e) round to more rational million-euro figures the turnover thresholds used to determine the level of fee paid by tour operators and reduce slightly the multiplicity of fees currently being charged;
- (f) reduce, or maintain at current levels, fees for the issue of an amended licence because higher fees would be excessive in the light of the workload involved.

The proposed revised fee structure is set out in Schedule 2 to this consultation paper. The existing fees are set out in Schedule 1 and a comparison of both fees in Schedule 3. The Commission also intends that in future, fee increases would be linked to the annual percentage increase in the Consumer Price Index in the previous calendar year.

On the assumptions that there are no significant changes in the demand for licences, and the levels of turnover of tour operator licence applicants, the implementation of the proposed fees should generate in a full year the revenue needed to defray the Commission's costs. The Commission believes that the higher weighting to fees for the late submission of accounts and presentation of licence applications at short notice will have a deterrent effect and thereby reduce revenue from these sources.

7. THE COMMISSION'S APPROACH TO LICENSING

The Commission is mindful of developments in regulatory practices generally and is committed to following best practice and giving value for money in its conduct of its activities. Since it was established and assumed responsibility for licensing travel agents and tour operators, it has taken a number of steps to provide a more focused regulatory regime. These include the active deployment of financial expertise to enhance the quality of its assessment of licence applicants' financial arrangements and the adoption of a policy of targeted investigation and prosecution of illegal trading. The latter initiative has resulted in a number of firms being convicted in the courts for trading without the appropriate travel agent's or tour operator's licence. The Commission's Work Plan for 2006 includes further measures that it expects will enhance the focus of its regulation of travel agents and tour operators. Among these are the introduction of a revised application form, the deployment of improved computer technology and further initiatives to encourage compliance with the licensing requirements and to deter non-compliance.

8. RESPONSES TO CONSULTATION

The Commission will welcome any responses to its proposal for a revised licence fee structure. Any such responses should be forwarded in writing by post to:

Fintan Deere, Head of Travel Trade,
Commission for Aviation Regulation,
Alexandra House,
Earlsfort Terrace,
Dublin 2

before 5 pm on Friday 30 June, 2006.

Submissions may also be sent by fax to 01 - 6611269 or by e-mail to fintandeere@aviationreg.ie by that deadline. The Commission will carefully consider and take into account the responses it receives before finalising its proposals

9. NEXT STEPS

The Transport (Tour Operators and Travel Agents) Act, 1984, provides that the consent of the Minister for Finance is required for fees which the Commission may set in respect of travel agents' and tour operators' licences. The Commission proposes to seek the Minister's consent to the proposed increases and subject to that consent, make amending regulations under the Act to give them effect.

SCHEDULE 1

Existing fees:

TRAVEL AGENTS	
	<u>Fee</u>
New Applicants	€600
Renewal of Travel Agent's Licence	€300

TOUR OPERATORS	
<i>The fees will be determined on the basis of "licensable turnover" according to the following scale:-</i>	
<u>Licensable Turnover</u>	<u>Fee</u>
€635,000 or less	€300
€635,001 but not exceeding €1,270,000	€600
€1,270,001 but not exceeding €3,810,000	€1,550
€3,810,001 but not exceeding €6,350,000	€2,150
€6,350,001 but not exceeding €12,700,000	€3,100
€12,700,001 but not exceeding €25,400,000	€7,800
For every €1,270,000 or part thereof in excess of €25,400,000 an additional fee of	€300
<u>Additional fee for new applicant</u>	<u>€300</u>

Travel Agent's application - licence wanted within 2 months €625

Travel Agent's application - licence wanted within 1 month €1250

Tour Operator's application - licence wanted within 2 months €1250

Tour Operator's application - licence wanted within 1 months €2500

Late Accounts Fees:

Travel Agent : €625

Tour Operator: €1250

(If both licences held both fees are applicable)

Licence Amendment Fees

TA €30

TO €150

SCHEDULE 2

Proposed fees:

TRAVEL AGENTS	
	<u>Fee</u>
New Applicants	€750
Renewal of Travel Agent's Licence	€750

TOUR OPERATORS	
<i>The fees will be determined on the basis of "licensable turnover" according to the following scale:-</i>	
<u>Licensable Turnover</u>	<u>Fee</u>
€1,000,000 or less	€750
€1,000,001 but not exceeding €4,000,000	€2,000
€4,000,001 but not exceeding €7,000,000	€3,000
€7,000,001 but not exceeding €12,000,000	€4,000
€12,000,001 but not exceeding €25,000,000	€10,000
For every €2,500,000 or part thereof in excess of €25,000,000 an additional fee of	€800
<u>Additional fee for new applicant</u>	NIL

Travel Agent's application - licence wanted within 2 months: €2000

Travel Agent's application - licence wanted within 1 month: €4000

Tour Operator's application – licence wanted within 2 months €2000

Tour Operator's application - within 1 months €4000

'Late' Accounts Fees:

Travel Agent: €2000

Tour Operator: €4000

(If both licences held both fees applicable)

Licence Amendment Fees TA €30 TO €30

SCHEDULE 3

Proposed (Existing) comparison:

TRAVEL AGENTS	
New Applicants	<i>Fee</i> €750 (€600)
Renewal of Travel Agent's Licence	€750 (€300)

TOUR OPERATORS	
<i>The fees will be determined on the basis of "licensable turnover" according to the following scale:-</i>	
Licensable Turnover	<i>Fee</i>
€1,000,000 or less (€635,000 or less	€750 €300)
€635,001 but not exceeding €1,270,000	€600)
€1,000,001 but not exceeding €4,000,000 (€1,270,001 but not exceeding €3,810,000	€2,000 €1,550)
€4,000,001 but not exceeding €7,000,000 (€3,810,001 but not exceeding €6,350,000	€3,000 €2,150)
€7,000,001 but not exceeding €12,000,000 (€6,350,001 but not exceeding €12,700,000	€4,000 €3,100)
€12,000,001 but not exceeding €25,000,000 (€12,700,001 but not exceeding €25,400,000	€10,000 €7,800)
For every €2,500,000 or part thereof in excess of €25,000,000 an additional fee of (For every €1,270,000 or part thereof in excess of €25,400,000 an additional fee of	€800 €300)
<u>Additional fee for new applicant</u>	€0 (€300)

Travel Agent's app - - licence wanted within 2 months €2000 (€625)

Travel Agent's app - licence wanted within 1 month €4000 (€1250)

Tour Operator's app - licence wanted within 2 months €2000 (€1250)

Tour Operator's app - licence wanted within 1 month €4000 (€2500)

Late Accounts Fees TA €2000 (€625) TO €4000 (€1250)

(If both licences held both fees apply)

Licence Amendment Fees TA €30 (€30) TO €30 (€150)