

Mr. Cathal Guiomard,
Commissioner,
Commission for Aviation Regulation,
3rd Floor,
Alexandra House,
Earlsfort Terrace,
Dublin 2.

31 July, 2009

Re: Response to Airport Charges Draft Decision Paper

Dear Cathal,

I am writing to you on behalf of a Consortium comprising Goodbody Corporate Finance, Matheson Ormsby Prentice and Mott McDonald. As you are aware, the Consortium is in the process of running a competition, on behalf of the Minister for Transport, to source an operator for T2 at Dublin airport.

At meetings with you, in relation to the airport charges Draft Determination, you asked that the Consortium would formalise its comments in relation to the interaction between the Draft Determination and the competition currently being run on behalf of the Minister for Transport.

Competition Timetable

We attach for your attention the latest draft timetable for the running of the competition. This timetable is still subject to change and we are awaiting formal confirmation from DAA that they are in agreement with it. We would ask you to keep this competition timetable confidential as it will be released to the market in due course, as part of the competition.

Competition for Services in T2

As you are aware, the consortium has been engaged by the Minister for Transport to run a competition for a list of services to be provided. As you are also aware, while the bulk of the services to be put out to tender are clear, there are a number of services for which the market demand is uncertain given the circumstances of T2. As we explained to you at our meeting, the consortium proposes to consult the market about the interest in these services. Should the consultation indicate sufficient market demand, it is the intention of the Consortium to maximise the number of services in the competition. A Periodic Indicative Notice (PIN) issued on 29th July 2009 to commence this process.

The Minister has determined, in accordance with the recommendations of the consortium that certain services are best provided on an airport wide basis. These services will not form part of the competition. In general, these services are those on the airside of the airport. Therefore, while you have outlined in the Draft Determination, there will clearly be additional Operating Expenditure allowable following the competition, it will clearly have two parts; (a) those costs which are the subject of the market competition; and (b) those services which will be provided by the DAA.

Recovery of T2 Operating Cost

We welcome the stated intention of the commission to "allow the DAA to recover the cost of the winning bidder" – Executive Summary, point 6. We believe that this approach to be in the interest of both the DAA and CAR, and that to "second guess the market" would be an unreasonable approach.

Clearly CAR will have to make its own determination in relation to the services which will be provided by the DAA.

We are aware of CAR's desire to maximise the amount of information in the public domain. However, the Consortium formally requests CAR not to publish the amount of the winning bid. There is a concern in the Consortium that a decision by CAR to publish the actual amount of the winning bid could deter certain service providers from entering the competition. This could inhibit the efficiency of the competition.

Start-Up Costs

We welcome the approach suggested by Clause 7.4 of the Draft Determination. As discussed with you, the consortium is of the belief that the cost recovery under the contract with the new T2 operator should apply from the signing of that contract and not from the opening of the terminal. This arrangement will facilitate the running of the competition in the current difficult banking market. The alternative approach of seeking financing from incoming operators to fund the ramp-up / training period prior to opening, as would normally be the case for an operating contract such as this, is not attractive to bidders in circumstances where the banking markets are suffering disruption.

The consortium requests CAR to confirm this treatment of start-up costs of any new operator, as proposed in Section 7.4 of the Draft determination. We also welcome the proposal to make allowances for transitional costs. Both approaches will facilitate the Minister's competition and DAA's approach to it.

Redundancy Costs

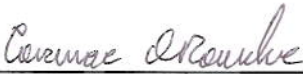
In the event that the operation of T2 is awarded to an outside party, there is a real possibility that DAA will find itself in a position where it has excess staff as a result of the award under the Ministers competition.

In these circumstances, it is the belief of the consortium that CAR should allow the cost of any such redundancies to DAA. Were CAR not to grant such a treatment, the consortium would be put in a position where it would have to consider such costs in the context of the award of the T2 operation to the most "economically advantageous" bidder from the perspective of DAA. In this context, we welcome the proposed treatment in Section 7.22 of the Draft Determination. It is the belief of the Consortium that such costs are indeed reasonable transition costs and that they arise as a result of Government policy to hold a competition and are not within the control of the DAA.

One-Off Costs

We note the proposed treatment of one-off DAA costs in section 7.21 which indicates a capitalisation and a recovery over a five year period for certain one off costs. There may well be unforeseen costs of the competition which may need to be treated in this way and we welcome the mechanism. We do not believe that this is the most effective treatment for operating costs arising prior to opening.

Yours Sincerely,


Cormac O'Rourke
Director
Goodbody Corporate Finance

