26 July 2001

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

Dear Cathal,

Draft Determination re Proposed Maximum Levels of Airport Charges

With reference to Commission Paper CP6/2001 dated 26 June 2001, bmi british midland have the following comments, primarily in respect of regulation proposals for Dublin airport.

We view the role of the Regulator as protecting the interests of the airlines, by incentivising the airport to meet the users' requirements at minimal costs, providing the necessary infrastructure, efficient operation and service quality, whilst at the same time allowing Aer Rianta to earn a reasonable return.

Following review of the Commission Paper, in general terms, there is clearly a great deal more work & consultation required with users before a final determination should be made. There are no details included in the draft regarding timescales for the user consultation processes following responses to the determination, and plans for subsequent implementation, but this should be given an adequate timeframe before finalising the regulatory regime of price cap, components & basis. You will obviously be aware of the situation regarding the current regulatory review of the London BAA and Manchester Airports and the fairly detailed and extensive consultative processes being undertaken with users. Whilst we do not feel this should be replicated for the Irish Airports, there should be a robust process.

As you will see from our comments below, we believe there is much work to be done in establishing an agreed position for future investments at Dublin, and as the capital programme is fundamental to determining the cost base for Aer Rianta, quite clearly this has to be agreed with users before the level of price cap can be fixed.

We trust therefore that you will take the following more specific points into consideration and follow through the consultation process on these aspects, before finalising the price cap;

Capex Programme

A 10 year summary totalling approximately £500m has been included with the draft determination, and this is the first sight for bmi of a capex programme for Dublin Airport. From the broad headings noted, we have serious concerns regarding the items included and the scale of investment proposed. Not only with respect to road & rail schemes, but the significant sums proposed for terminal development, for which we see no justification during the next 5 years at least.
Without further details we cannot comment further, except to reiterate that it is vitally important that this programme is now made the subject of a detailed consultation process with users to arrive at an agreed community position. The cost benefit case should be presented by Aer Rianta for each of the key projects to facilitate this process. Initial discussions regarding investment plans have only recently commenced between Aer Rianta and the users, and are at a very early stage. Only at the end of this process will the Regulator be able to review the agreed capex programme and finalise the price cap.

We are also opposed to the concept of prefunding. There should be an annual adjustment factor applied to the revenue yield, to reflect actual investments implemented. Otherwise, a price cap is set based on a programme which may not materialise, or for the value anticipated or within the timescale expected. It is unreasonable to expect users to pay a fixed price regardless of delivery of the capital programme. We should not have to rely on bargaining with the airport to seek a voluntary reduction of price. In reality, this will not happen, and transparency becomes clouded.

Revenue Cap

Clearly the price cap proposed should require adjustment and is therefore yet to be determined for the reasons detailed above.

We understand from the Commission Paper that 15% efficiencies have been included in arriving at the Revenue Cap. We would expect efficiencies to be reflected in the application of a CPI - X factor, of say X = 5%. This would be more transparent.

We suggest that the revenue yield per WLU calculation should be made on the basis of all carriers having paid per tariff, so that any discounts or deals offered are not subsidised by other carriers.

Single Till

We wish to clarify that there will be a separate till for each airport, and that there will be no cross subsidisation between the 3 airports concerned.

The till should include all incomes & costs relative to the airport site, both commercial and aeronautical. More specifically, this should also include hotels and retailing which are on the airport site. We appreciate that Aer Rianta comprises several companies, and although this complicates the issue, it should not preclude the relevant items being included in the till for each airport.

Our experience of other regulated airports, notably Heathrow which is heavily congested, indicates that the single till has not provided perverse incentives, and that in general, every opportunity has been taken by the airport authority to improve commercial revenues, to make best use of resources available and to provide the investments required by users. It is in the

airports' interest to minimise charges to its users, to maintain high utilisation and maximise commercial & aeronautical incomes. We believe the Regulator should not allow the airport to retain its profits at the airport from commercial opportunities, and for these to be excluded from the single till. This is only serving to maximise the profits retained by the airport, which is not the role of the Regulator, and neither is it reasonable for these profits not to be shared with its business partners, the airlines, who are the sole reason for the airport's existence.
In general, the airlines provide significant investment at the airport, in terms of paying airport charges and other local suppliers, employment of staff etc., and which provides significant benefits to the area and local economy. It is totally inappropriate to try and separate the aeronautical and commercial aspects of the airport as they are intrinsically linked.

Charges Structure & Levels

We note that the Regulator intends to leave the structure of charges to be determined by Aer Rianta.

We had extensive discussion with Aer Rianta following the Price Waterhouse Coopers study in 1999, and raised a number of issues. We are concerned that Aer Rianta will look to implement a structure based on the results of the study and despite our comments. The Regulator should ensure that user consultation is instituted and that comments are taken into full consideration before implementation. There is no mention of this process in the Commission Paper, but this is a very important issue for the airlines, as the structure and levels of charge could have a major impact on all or a number of airlines.
With effect from January 2000, bmi have seen discounts terminated with no rebalancing of tariffs resulting in significant charges increases, despite discussion with Aer Rianta.

There are several key areas of concern;

Peak / off peak charges
Differential charges for different facilities
Route support
Incentive Growth Schemes

We do not support peak/off peak charges and the proposed basis contained in the Commission Paper is inappropriate and discriminatory

We are concerned that lower cost facilities may be offered at lower charges, and how this would be handled, as this is a very subjective and complex area. All facilities must be reasonably available to all to eliminate discriminatory issues. Any charge reduction must be totally transparent and limited to the aspect of lower service to ensure no cross subsidisation eg) passengers may use common facilities at the airport, including transfers and flight connections, car park, retail, catering etc, but may depart from a lower quality facility.

We accept limited new route support, but unquantified market support should not be allowed from the single till.The scheme proposed therefore is not acceptable.

We require clarification as to how the current Growth Incentive Scheme is being treated post regulation. Whilst new schemes were not implemented post 1999, there is a programme of unwinding of previous schemes. If this is allowed to continue, we believe that heavy discounts will continue to apply for the next 4 years or so, at levels of say 70% / 50%, which is totally unacceptable and discriminatory.

Quality of Service

Services to be provided by the Airport should be defined and stipulated. There is no mention of quality of service within the Commission Paper and we recognise this is a major area to review if definition and measurement are to be undertaken. However, we suggest that this could be considered and developed with Aer Rianta and the Regulator over the course of the next few years.

Consultation and Review

We would expect the ability to require a mid term review, if majority users agree. We also expect an ongoing, and at least annual consultation with Aer Rianta, regarding the capex programme, revenue yield calculation, rate of return etc.

We look forward to your comments and clarification regarding the above issues, and to hearing from you regarding the next steps and further consultation process.

Should you have any queries in the meantime, please do not hesitate to contact me.

Yours sincerely,

Jane Irving
Financial Controller - Operational Costs & Development

email jane.irving@flybmi.com
Tel + 44 1332 854747