

Notice of Invitation to comment on representations made on the draft determination on Airport charges at Dublin airport dated 18 June 2009

1. On 18 June 2009 the Commission published its Draft Determination on the maximum levels of airport charges at Dublin airport (CP3/2009). The Commission invited responses on the proposals in the Draft Determination from interested parties by 5pm on Friday 7 August 2009. Twenty two interested parties made submissions by that time. Those responses are published on the Commission's website www.aviationreg.ie.
2. Following the publication of those responses the Commission for Aviation Regulation received a request from a party that submitted a representation to permit comments on the representations made by other parties. Respondents to the draft determination that have submitted published representations who wish to comment on the representations made by other parties are invited to submit comments on those representations to the Commission **by 5pm, 11 September 2009**. These written comments will also be published on the Commission's website. Parties are referred to the following section of this paper in relation to the receipt of such responses and their contents. Respondents are asked to support any views and comments expressed with relevant evidence.

Responding to Representations on the Draft determination

Deadline

3. The Commission wishes to emphasise the importance of making submissions and representations in good time. The closing time for receipt of submissions on representations by the Commission will be **5.00 pm on the 11th of September 2009**.

Delivery of Documents

4. Responses should be titled "**Response to representations on the Draft Airport Charges Determination of 18 June 2009**" and sent to

Commission for Aviation Regulation
3rd Floor
Alexandra House
Earlsfort Terrace
Dublin 2.

By email to info@aviationreg.ie

By fax to 00-353-1-6611269

5. The Commission requests that all written submissions be typed. Submissions may also be sent to the Commission in electronic form either on disk or by e-mail to **info@aviationreg.ie** and 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.
6. To ensure that the Commission acts in a fair, transparent and nondiscriminatory manner, the Commission is concerned to ensure that all parties making representations in respect of the determination are clear about the meaning of the deadline set for receipt of such representations and the consequences of failing to meet the deadline.
7. Subject, where applicable, to the specific rules set out 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.
8. The onus is on the party making representations to the Commission to ensure that the representations are received by the Commission on or before the deadline.
9. 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 results in part only of the representation being received by the Commission on or before the deadline.
10. 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 only 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 portion will be deemed not to have been received by the Commission.
11. In determining the time at which representation are actually received by the Commission, in accordance with the rules set out in this notice, the Commission shall use the clock settings, time and date stamps in use in the offices of the Commission, on its fax machine and on its information systems, as appropriate.
12. The Commission envisages that it may correspond with interested parties who have made submissions for clarification or explanation of their submissions. Such correspondence is not an invitation to make further submissions.

13. 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 are delivered by An Post to the offices of the Commission, 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 are delivered by the courier company or the person effecting the hand delivery to the offices of the Commission, 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 the courier company or the person effecting hand delivery unless the party sending the representations can prove otherwise.

14. Respondents should be aware that the Commission is subject to the provisions of the Freedom of Information legislation. While parties are free to designate part or all of their submissions as confidential 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:

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.

15. 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 below.

Annex 1.

LEGAL NOTICE

A1. While the Commission for Aviation Regulation (“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

A2. Any party submitting information to the Commission for Aviation or Regulation (“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.