



**REPORT**

**to the**

**MINISTER FOR TRANSPORT**

**for the year ended**

**31 DECEMBER 2009**

**31 March, 2010**

**Commission for Aviation Regulation  
3<sup>rd</sup> Floor  
Alexandra House  
Earlsfort Terrace  
Dublin 2**

**Tel +353 (0) 1-6611700, Fax +353 (0) 1-6611269**

**e-mail: [info@aviationreg.ie](mailto:info@aviationreg.ie)  
[www.aviationreg.ie](http://www.aviationreg.ie)**

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## FOREWORD

In the aviation and travel sectors, 2009 will be remembered as a year of unprecedented upheaval associated with the impact of the economic downturn. The number of air traffic movements into and out of the three main airports declined by 19% during the winter 2009 season, while passenger numbers for 2009 at Dublin airport were back to 2006 levels. In the travel trade sector, the number of licences declined by 15%; there were 19 company failures in the sector which led to over 4,600 claims for refunds. It is against this back-drop of significant change that the Commission carried out its economic regulation and licensing roles, and, in particular set a new price cap governing charges at Dublin airport for the years 2010-2014.

### 2010-2014 Third Price Cap Determination

Throughout 2009, the Commission worked on its third charges review (following those of 2001 and 2005) at Dublin airport. For the 2009 Determination, perhaps the two most significant challenges were how to respond to the unusually large drop in passenger traffic at Dublin airport, and what implications the second terminal (T2) might have for operating expenditure at Dublin airport. After substantial engagement with interested parties, a final Determination was published in December with a report setting out the reasoning underlying the Determination; this is available at [www.aviationreg.ie](http://www.aviationreg.ie). The Determination provides for an annual increase in the price cap for the capital and operating costs of T2 in a full operating year of €2.33. The new Determination is the first to include an explicit link between the level of the price cap and the quality of service provided at Dublin airport. Since the Commission's Determination, Standard and Poor's has downgraded the DAA's credit rating citing falling traffic as a primary cause.

### The Commission's Travel Trade Licensing Activities

During 2009, the Commission issued 304 licences, down from 356 the previous year. One applicant was refused a license for failing to meet the conditions for granting a licence. This company initially appealed the decision to the High Court and also initiated a Judicial Review before going into liquidation.

Nineteen firms that had participated in the bonding scheme for the travel trade operated by the Commission closed in 2009 but, unlike in 2008, no closure required the Commission to bring home passengers affected. Subsequently, the Commission received over 4,600 claims for financial restitution; more than one-quarter of these claims reached the Commission in the final month of 2009. The cost of the refunds processed thus far is €3.5 million. The vast majority of the cost is expected to be borne by bonds that licensed travel companies are required to hold, with the Travellers' Protection Fund (TPF), established to provide funds where a bond proves to be insufficient, providing the balance. There has been a marked fall in the size of the TPF, which has reduced from over €7.5 million in 2007 to below €6 million at the end of 2009. The Commission has advised the Department of Transport that a continuation of the travel trade licensing and bonding scheme, as currently operated, may require a replenishment of the TPF by means yet to be determined. The existing TPF, managed by the Department of Finance, was built-up by means of a levy on tour operators between 1980 and 1983.

### **Merger of Commission with the NTA and other organisational issues**

Like all other organisations in Ireland, the Commission in 2009 operated in a very different environment to that prevailing before the downturn. Accordingly, our budget was broadly unchanged from 2008 and for 2010 the Commission has budgeted for a 10% reduction in its own costs. Also, in line with the falling price level, the Commission has reduced its regulatory fees and charges for 2010.

In terms of agency reorganisation, the Government announced in October last that the Commission will be merged with the National Transportation Authority (NTA).

For its part, the Commission seeks to make the best use of its own resources. We believe that there is scope to reorganise our roles in ways that would improve services to the public within a given budget. In that regard, the Commission noted the comment in the report of the task force on the public service in November 2008 that "regular evaluation is necessary to allow decisions to cease [agency] activities that no longer create public value ... or where the activity is now of lower priority and the resources used are needed for a higher priority area" (page 39). The Commission believes, and has advised the Department of Transport, that certain of its current roles in the area of ground-handling approvals and access to installation fees could be discontinued or remodelled without

loss of consumer protection. Furthermore, plans by the European Commission to review the Package Holidays Directive should provide an opportunity to reconsider the travel trade licensing regime, also taking account of the Commission's advice to the Minister in 2008.

Concerted action in these areas- most of which is outside the Commission's control- would allow resources to be reallocated to those activities with the maximum benefit for the Irish public.

From a consumer perspective, the Commission applied its new role for passengers with disabilities and with reduced mobility (PRM) in 2009. Each Irish airport was inspected for compliance with the PRM legislation and in August the Commission approved a charge of 33 cents at Dublin airport for PRM services.

A public service agency like the Commission depends for every part of its work on its staff. I take this opportunity to thank each of my colleagues- whether issuing licenses, keeping accounts, setting price caps, defending Court actions, handling passenger complaints, answering enquiries, introducing electronic systems, or processing claims- for their hard work and dedication in 2009.

Also essential to the work of the Commission is engagement from the public and interested parties. I am grateful therefore to the organisations and people in Irish aviation with whom we worked in 2009 and in particular those that engaged extensively with us during the review of charges at Dublin airport.



Cathal Guiomard

Commissioner



# PRICE REGULATION

## The Commission's Role

The Commission:

- sets a price cap limiting the total revenues per passenger that the DAA can collect from airport charges at Dublin airport;
- sets a price cap limiting the total revenues per tonne of maximum take-off weight (MTOW) that the IAA can collect from aviation terminal services charges at Dublin, Cork and Shannon airports;
- has to approve charges airports levy on airlines to fund services for passengers with reduced mobility; and
- has to approve any changes to the fees charged by the airport authorities at Dublin, Cork and Shannon airports for access to installations needed to provide ground handling services.

The Commission has no power to regulate other charges, including:

- car park charges at airports, and more generally non-aeronautical charges (except those levied for access to installations needed for ground handling services at Dublin, Cork and Shannon airports);
- en route air traffic charges the IAA sets; and
- charges at Knock, Kerry, Galway, Waterford, Donegal and Sligo airports.

## Airport Charges

The main task relating to price regulation for the Commission in 2009 was to make a new Determination governing the maximum level of airport charges that the DAA can levy at Dublin airport. In December the Commission published its Determination, setting the annual price caps that will apply for the period 2010 to 2014. The Commission produced both a draft and final Determination in 2009; the reports, both over 100 pages, are available on the Commission's website along with copies of the spreadsheet models that the Commission used to help it make necessary calculations. As in previous Determinations, there was substantial engagement with interested parties during the process, with many stakeholders taking the opportunity to make representations to the Commission.

## 2008 Appeal Panel

In addition to working towards the final Determination, the economics team had to revisit aspects of the 2007 Interim Review that were referred back to the Commission by the Aviation Appeal Panel in December 2008. The Appeal Panel decided to refer eight topics from the 2007 Interim Review decision back to the Commission for its consideration. This required a substantial, additional amount of work in the first two months of the year. Initially, the Commission published a brief consultation paper inviting parties to give their views as to whether the Commission should affirm or vary its Determination. After carefully considering the points referred back to it by the Appeal Panel and submissions received subsequently, the Commission decided to affirm its Interim Review. The report explaining this decision was published on 23 February, within the two months allowed for the Commission to consider referrals back to it of Appeals against Determinations.

## 2010 – 2014 Third Price Cap Determination

Throughout 2009, the Commission conducted work relating to a third price-cap Determination. In making this Determination the Commission considered each of its statutory objectives by reading them together and in light of each other:

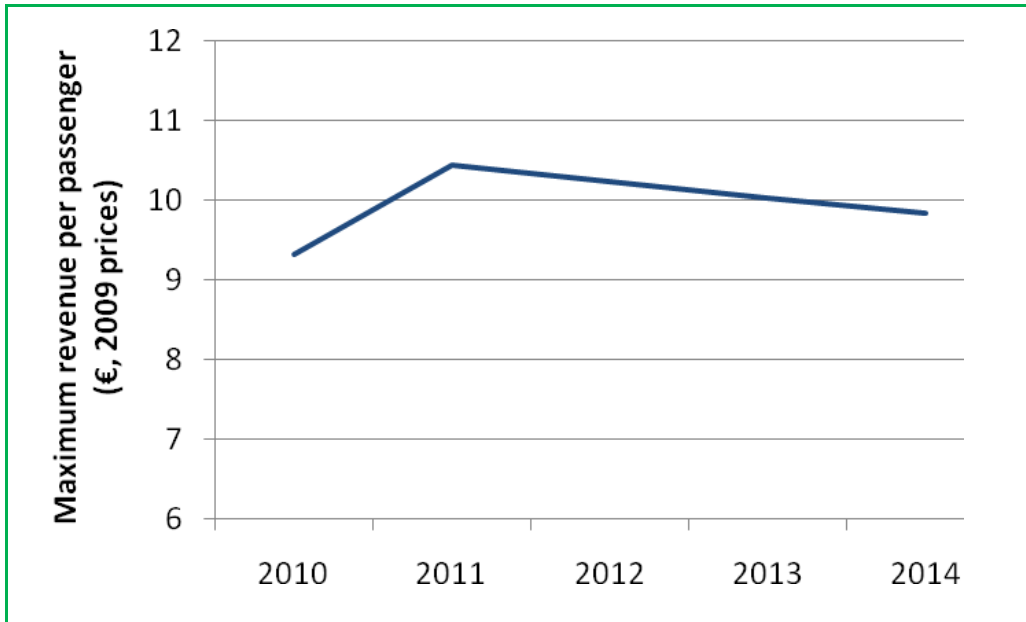
- to facilitate the efficient and economic development and operation of Dublin airport which meet the requirements of current and prospective users of Dublin airport;
- to protect the reasonable interests of current and prospective users of Dublin airport in relation to Dublin airport; and
- to enable Dublin airport Authority to operate and develop Dublin airport in a sustainable and financially viable manner.

For the final Determination the Commission also had regard to a notification received from the Minister for Transport, under Section 10 of the 2001 Act, on 29 October 2009. The notification referred the Commission to two government documents: “Building Ireland’s Smart Economy: a framework for sustainable economic renewal” and the Department of Transport’s Statement of Strategy for 2008-2010. The Minister also referred the Commission to the Aviation (Preclearance) Act 2009.



The final Determination was published on 4 December. The chart below shows what the price cap governing airport charges at Dublin airport will be if T2 becomes operationally ready on 1 November 2010.

**Figure 1.1: 2010 – 2014 price cap if T2 is operationally ready by November 2010**



In the process leading to its final Determination the Commission received representations from a wide range of interested parties during the 14-month period from the publication of an issues paper in October 2008. The Commission received ten responses to the Issues paper. On 18 June, the draft Determination was published which contained the Commission's preliminary thinking on all aspects of the price-cap Determination. Twenty-two responses were received by the closing date of 7 August. Following requests to allow an opportunity to comment on the responses received to the draft Determination, on 21 August the Commission invited comments on the responses to which four responses were received. In November the Commission published Booz & Co.'s report on operating costs in T2 plus a notice, CN2/2009 encouraging comments in relation to how the Commission should treat Booz & Co.'s report in the final Determination. Five interested parties submitted their views on this work.

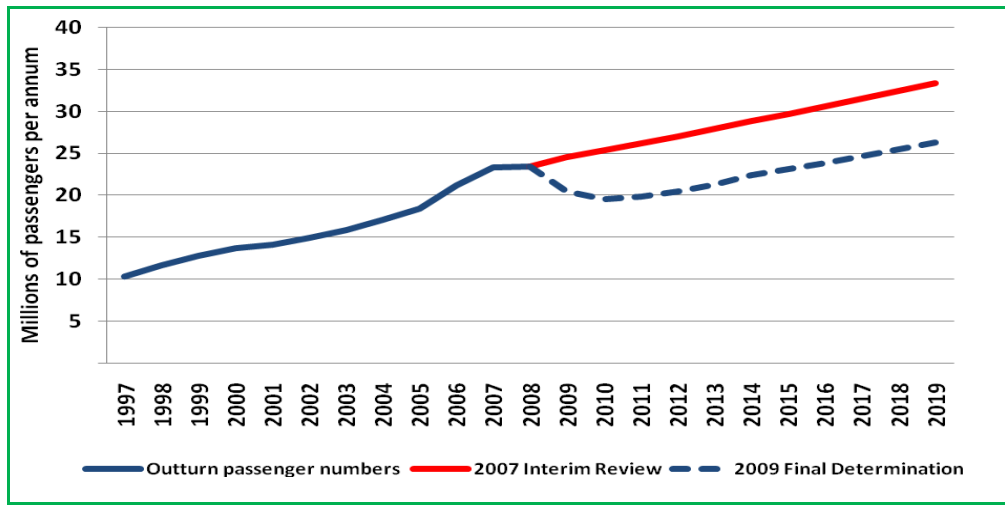
Every Determination poses particular challenges. For the third Determination, perhaps the two most significant were

- how to respond to the unusually large drop in passenger traffic, and
- what implications the second terminal might have for operating expenditure at Dublin airport, particularly given the uncertainty concerning the plans for an independent operator.

The costs associated with completing a major investment programme, as the DAA undertook in 2008 and 2009, combined with a large fall in traffic numbers meant that Commission had to give careful thought to the DAA's ability to operate the airport in a sustainable and financially viable manner. The Commission decided to allow a one-off uplift in the price cap for 2010 to reflect the difficulties facing the DAA. Since the Commission's final Determination, Standard and Poor's has downgraded the DAA's credit rating citing the falling traffic as a primary cause.

The scale of the drop in passenger traffic is illustrated in the chart below, comparing the passenger forecasts at the time of the 2007 and 2009 Determinations. To arrive at a final passenger forecast for the 2009 Determination, the Commission developed its own econometric GDP-growth model to forecast traffic at Dublin airport from 2010 onwards. Preliminary results from this were published in the draft Determination. Representations received from parties, coupled with continuing declines in the general state of the economy, resulted in the final Determination using a lower forecast. For both 2009 and 2010, the forecasts were adjusted down to reflect the more pessimistic outlook that both the airport and the airlines were reporting to the Commission.

**Figure 1.2: Passenger traffic outturns to 2008 and forecasts from the 2007 Interim Review and the 2009 Determination**



Having estimated its baseline traffic forecasts for Dublin airport for the regulatory period 2010–2014, the Commission developed estimates for operating costs and commercial revenues. The final Determination included an allowance for an efficient level of operating costs to operate the DAA’s existing facilities and for T2 when it opens. The Commission assumed that T2 will open in November 2010 and that it serves 40% of total passenger numbers at the airport. The Commission’s final decision was informed by work carried out by two consultancy groups retained by the Commission. Indecon International Consultants, in conjunction with Jacobs, were retained to conduct a ‘bottom-up’ study of the operating costs of Dublin airport, excluding T2 for the draft Determination. This exercise was in keeping with the general sentiment of respondents to the October 2008 Issues Paper.

The draft Determination indicated that the Commission might rely on the outcome of the tender process which the Department of Transport was holding to select an operator for certain services in T2. Continued uncertainty about the development of the tender process and whether the cost information would be publicly available in advance of the publication of the final Determination, coupled with comments from a number of respondents to the draft Determination arguing against relying on the tender process, led the Commission to decide to engage Booz & Co to analyse the effect on the operating costs of T2 becoming operationally ready. The Booz & Co. study sought to forecast operating costs at the new

passenger terminal and to identify any economies of scale and scope that may arise from the introduction of a new passenger terminal.

The estimation of commercial revenues included in the final Determination was calculated by the Commission using a forecast based on an econometric model; this “top-down” approach is based on observed historical relationships between passengers numbers, GDP or retail sales. Unlike in previous Determinations, the Commission conducted all work relating to forecasting future forecasting future commercial revenues in-house. There were no consultants engaged.

The Commission also undertook all the work associated with estimating a suitable return on capital to allow for the purposes of setting a price cap. It allowed a real pre-tax cost of capital of 7%, using a similar methodology to that used by consultants in previous Determinations.

The lower traffic forecast had implications for capital costs, as well as operating costs and commercial revenues. For the first time, the Commission chaired a series of meetings to discuss capex needs at the airport in the first half of the year. While these meetings helped the Commission reach its conclusions about what allowances to make for investment at the airport in the next five years, the Commission hopes that parties will continue to engage constructively to discuss the evolving capital needs at the airport over the next five years. The Commission has previously set out principles for effective consultation in its policy paper providing guidance on the approach to capex consultation, CP8/2007.

Ultimately, the Commission made a Determination that assumed investment at Dublin airport of €189m in the period 2010–2014, possibly increasing by a further €320m if conditions require (in particular if traffic exceeds expectations such that a new runway is warranted). The tables below present details of the amount allowed for eight capex categories, and also outline the three “triggers” for which the Commission would expect additional capital expenditure at Dublin airport.

**Table 1.3: Unconditional capital expenditure allowance 2010-2014**

Capex Grouping	Final Determination Amount (millions of Euro)
Airport operations	€43m
Landside infrastructure	€22m
Piers and terminals	€8m
Plant and equipment	€3m
Retail	€11m
Revenue	€14m
Stands and airfields	€32m
Utilities	€37m
Programme management and contingency	€19m
<b>Total</b>	<b>€189m</b>

**Table 1.4: Conditional (triggered) capital expenditure allowance 2010-2014**

Possible additional projects	Trigger	Amount (millions of Euro)
Second runway	Annual passenger traffic exceeds 23.5 million	€288m
New apron development	Demand for stand availability in the peak week exceeds 74 stands	€22m
Upgraded hold-baggage screening	New legislation requires it	€10m

The Commission also reviewed capital expenditure undertaken by the DAA in the period 2006-2009, with a view to determining whether and how much the Commission should allow a return on and return of that spend. A detailed review of the out-turns costs associated with the T2 project will occur at the time of the next Determination, a decision signalled at the time of the 2007 Interim Review to provide added incentives for the DAA to manage the project costs. The current Determination allows for an increase in the price cap when T2 is operationally ready, but some of the costs of building T2 will only be included in price cap calculation if and when passenger numbers exceed 33 million.

The new Determination is the first to include an explicit link between the level of the price cap and the quality of service provided at Dublin airport. Should the DAA fail to meet various service quality targets, the annual price cap may be lower by as much as 4.5%. There are twelve measures of service quality in the monitoring scheme for which there is a financial incentive for the DAA to meet the target. The details of the scheme, including the choice of service-quality measures, were developed over more than a year and a half, with the first consultation paper on quality of service published in June 2008, prior to the Issues paper. There was widespread support for a monitoring scheme, although there were disagreements on the details, such as the areas of service that were most important, how best to measure them, and what financial incentives (if any) to put in place. The areas of service quality that the current scheme seeks to capture are listed in the table below.

**Table 1.5: Quality of service metrics included in the monitoring regime**

Service quality monitoring	
Security passenger search	Cleanliness of washrooms
Out-bound baggage handling	Comfortable waiting/gate area
In-bound baggage handling	Courtesy/helpfulness of airport staff (excluding check-in & security)
Ease of way-finding	Courtesy/helpfulness of security staff
Flight information screens	Overall satisfaction (all passengers)
Cleanliness of airport terminal	Communication/telecom/e-facilities

There was a change made to the application of the Commission's annual compliance assessment of the DAA with a new requirement for the DAA to reimburse users within forty-five days of the calendar year ending if it ever exceeds the price cap for that year. The Commission will only allow the DAA to roll forward a maximum of 5% of the price cap per passenger following any under-collection in a regulatory year.

## Access to Installation Fees

In 2009 the Commission did not receive any applications from the DAA for approval of fees in relation to 'access to airport installations' (also known as ATI fees) at Dublin, Cork or Shannon airports.

In the final Determination on Dublin airport charges the Commission included a forecast for revenues earned from access to installation fees in a forecast of the DAA's commercial revenues. The Commission indicated that at future Determinations, it will apply a claw-back or top up should its forecasts of revenues from ATI fees differ to the out-turn level. Any future applications for changes in the level of ATI fees at Dublin airport should now no longer generate opposition from airlines concerned that they are being asked to pay a "backdoor" airport charge.

## Persons with Reduced Mobility (PRM) Charges

On 27 August 2009 the Commission published a notice, CN1/2009, stating that the 33 cents charged by the DAA at Dublin airport for the provision of PRM services complied with the provisions of regulation EC 1107/2006. Further information on this issue is provided in the chapter on *Persons with reduced Mobility*.

## Aviation Terminal Services Charges

In July 2009, the Commission published a compliance paper verifying that the IAA had complied with the price caps for the nine-month regulatory period 26 March to 31 December 2007 and for the full calendar year 2008.

In October, the Commission verified that the IAA had satisfied the milestone event associated with Cork air traffic control tower becoming operational. The price cap governing aviation terminal service charges was updated accordingly.

While the Commission calculates the price cap for each year of the regulatory period, the IAA has full discretion to decide whether to charge up to the cap in a year. For 2010, the Commission currently forecasts that the price cap will be €3.36 per tonne of departing aircraft. The uncertainty arises because the current formula specifying the revenues that the IAA may collect from aviation terminal services varies according to the actual total tonnes of MTOW using aviation terminal services at Dublin, Cork and Shannon airports. It is only once total traffic is known, at

the end of the year, that the Commission will know for certain the cap on revenues that the IAA is allowed to collect for that year. However, if traffic volumes at Dublin, Cork and Shannon airports in 2010 are as forecast by the IAA in December 2009 (7,857,000 tonnes) then the price cap will be €3.36 per tonne.

### Regulated Price Caps and approved charges

The Commission maintains an up-to-date table of information on current price caps and approved charges on its website. The tables below summarise the 2010 price caps regulated by the Commission, along with some of the approved Access to Installation (ATI) charges.

**Table 1.6: Summary of regulated price caps**

Type of price cap	2010 price cap
Average revenue per passenger yielded through airport charges	Should not exceed €9.32 per passenger at Dublin airport <sup>(a)</sup>
Aviation Terminal Services Charges (ATSCs) at Dublin, Cork and Shannon airports	Should not exceed €3.36 per tonne of departing aircraft <sup>(b)</sup>

*Notes: (a) Assuming that the second terminal (T2) opens on 1 November 2010. If T2 does not open in 2010, the price cap will be €8.93; (b) assuming that the maximum take-off weight will be 7,857,000 tonnes in 2010.*



**Table 1.7: Summary of approved charges**

Type of access charge (ATI)	ATI charges effective from 1 January 2010
Dublin airport check-in desk fee Flexible rental check-in desk <sup>(a)</sup>	Annual fee: €24,564 per desk per annum Hourly rental: €29 per hour (or part thereof)
Shannon Airport check-in desk fee <sup>(b)</sup> Flexible rental check-in desk	Annual fee: €9,559 per desk per annum Hourly rental: €24 per hour (or part thereof)
Cork Airport check-in desk fee <sup>(c)</sup> Flexible rental check-in desk	Annual fee: €12,752 per desk per annum Hourly rental: €5.10 per hour (or part thereof)
CUTE <sup>(d)</sup> fees at Shannon Airport	€0.30 per embarking passenger
CUTE <sup>(d)</sup> fees at Cork Airport	€0.24 per embarking passenger

*Notes: (a) Adjusted for inflation on 1 January each year for the 12 months to the preceding July; (b) adjusted for inflation on 1 July each year for the previous calendar year; (c) adjusted for inflation on 1 January each year for the 12 months to the preceding 30th September. (d) CUTE refers to "Common User Terminal Equipment" at each airport, which enables the use of a given check-in desk by any user or handler.*

### Recovery of 2007 Judicial review costs from Ryanair Limited

In October 2007, Ryanair Limited initiated judicial review proceedings against the Commission's decision in its Interim Review of the 2005 airport charges Determination affecting Dublin airport. The High Court dismissed those proceedings and on 20th May 2008 made an Order in favour of the Commission awarding it 50% of the full costs of these proceedings including any reserved costs. The recovery of these costs is being pursued with Ryanair's legal representatives.

### Work Programme for 2010

The Commission's Determinations of price caps on airport charges have been subject to challenge several times since the formation of the office: 2002, 2006 and 2008 appeal panels and judicial review in 2003, 2005 and 2007. Such challenges have been a considerable drain on the Commission's time and resources. Already, in early 2010, one party has sought a judicial review of the Commission's 2009 Determination and

indicated that it intends to appeal the decision. It remains uncertain what demands on Commission resources these exercises will place in 2010.

The Commission will continue monitoring price-cap compliance by both the DAA and the IAA. It will also start planning for a new Determination governing Airport Terminal Services Charges (ATSCs) that the IAA may levy, with an Issues Paper planned for late in the year. The current IAA Determination ends in 2011.

In the final Determination on airport charges the Commission committed to consult on the merits of "single till" and "dual till" regulation at Dublin airport, with a view to informing the approach it might adopt at future Determinations. The Commission will start work on this topic in 2010. The Commission has to date favoured a single-till approach, including the costs and revenues associated with both aeronautical services and non-aeronautical services at Dublin airport in its calculations leading to a price cap on airport charge. A dual-till approach would only have regard to the costs associated with providing aeronautical services.

Goal	Actions to achieve goal
Monitor compliance with the price caps that are in place	<ul style="list-style-type: none"> <li>➤ Publish IAA annual compliance report.</li> <li>➤ Publish DAA annual compliance report.</li> </ul>
Begin the process of a new Determination for ATSC charges (IAA) at Dublin, Cork and Shannon airports.	<ul style="list-style-type: none"> <li>➤ Publish an Issues paper in the second half of 2010, leading to a new Determination before the end of 2011</li> </ul>
Re-examine the existing regulatory regime at Dublin airport, with a view to identifying those areas, if any, where changes might be required	<ul style="list-style-type: none"> <li>➤ Initiate a consultation process in 2010 on the scope of the regulatory till at Dublin airport: Single <i>versus</i> Dual Till.</li> </ul>

# SLOT ALLOCATION

## The Commission's Role

The Commission:

- Designates the scheduling status of Irish airports under the Slot Allocation Regulations, and
- Where necessary, appoints a schedules facilitator or co-ordinator.

## Coordination activities at Dublin airport

In February 2007 the Commission designated Dublin airport as slot coordinated for the Winter 2007 scheduling season, and thereafter. It remains the only slot co-ordinated airport in Ireland.

In 2006, the Commission appointed Airport Coordination Limited (ACL) as the Dublin airport coordinator for the period March 2006 to March 2011. ACL has day-to-day responsibility for slot coordination at Dublin airport. ACL carries out its slot coordination role via daily interactions with air carriers, as well as attending the bi-annual meetings of the Dublin Airport Coordination Committee. The Commission also attends these meetings.

There are two scheduling seasons for Dublin airport: Winter (31 October to 26 March) and Summer (27 March to 30 October). For each scheduling season, ACL publishes a report which summarises the number of slots requested and allocated, as well as the utilisation of airport capacity and infrastructure. Historical copies of the seasonal reports for Dublin can be downloaded from the ACL website: [www.acl-uk.org](http://www.acl-uk.org).

The 2010 Summer schedule will be finalised in March or April 2010. The Winter 2010 schedule, which was finalised at the end of October 2009, showed a significant drop in traffic versus previous years. The following table compares Winter 2008 and Winter 2009 aircraft movements at the three DAA airports with aircraft movements at a sample of UK airports. In terms of the change in movements between Winter 2008 and Winter 2009, DAA airports saw the largest decline, down 19% on the previous year.

**Table 2.1: Air traffic movements at Irish airports: Winter 2009**

	Total aircraft movements		
	Winter 2008	Winter 2009	% difference
Dublin, Cork and Shannon Airports	97,672	78,704	-19%
Dublin airport	76,070	61,996	-19%
London Heathrow	196,285	193,762	-1%
London Gatwick	94,227	96,939	3%
Stansted Airport	66,477	59,607	-10%
Manchester Airport	68,915	58,333	-15%

Source: Airport Coordination Ltd (ACL). Note: The Winter 2009 season runs from October 2009 to March 2010. 'Total aircraft movements' refers to the start of the scheduling season.

The bulk of the drop in activity at Dublin airport is accounted for by changes in the schedules of the two main airlines, Ryanair and Aer Lingus. Several other carriers, however, both ceased and commenced new operations at Dublin airport in the last year. Examples of this activity are given in the table below.

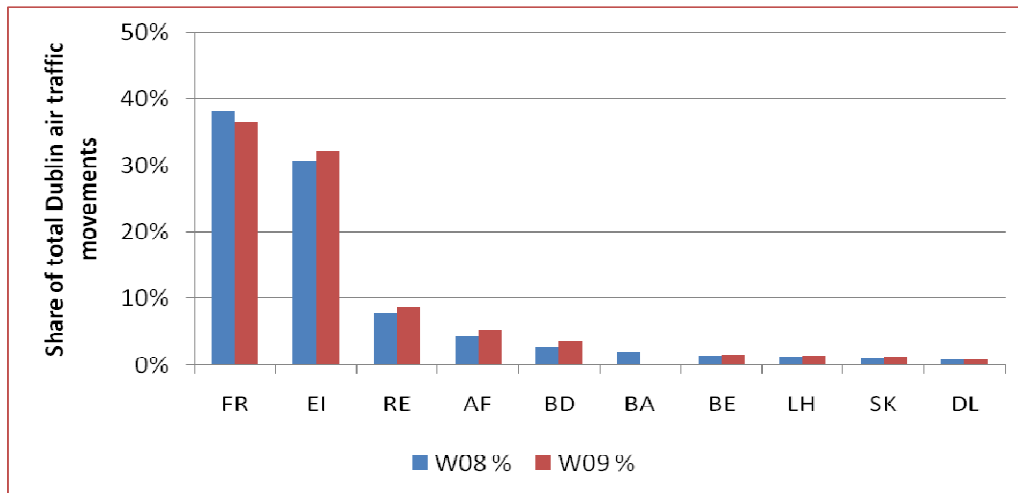
**Table 2.2: Winter 2008/Winter 2009 – Ceased/new carriers**

Air carrier / route	Scheduling season affected
<b>Carriers ceasing operations at Dublin</b>	
Siberian Airlines / Dublin – Moscow	Winter 2008, Summer 2009 (two per week)
Atlas Blue / Dublin – Agadir	Winter 2008, Summer 2009 (one per week)
Cityflyer (BA) / Dublin – London City	Summer 2009 (daily)
BA / Dublin – London Gatwick	Summer 2009 (daily)
Malev / Budapest	Winter 2009 (daily)
<b>Carriers commencing ops at Dublin</b>	
Jet4you / Dublin – Agadir	Winter 2009 (one per week)
DanubeWings / Dublin – Poprad (Slovakia)	Winter 2009 (one per week)
Tunisair / Dublin – MIR (Tunisia)	Winter 2009 (one per week)
Norwegian Air Shuttle / Dublin – Oslo/CPH	Winter 2009 (up to four per week)

Source: Airport Coordination Ltd (ACL)

The importance of the two largest carriers at Dublin airport (Ryanair and Aer Lingus) is illustrated in the following chart, which compares Winter 2009 (W09) movements with Winter 2008 (W08) movements by airline. In the last year, Ryanair's (FR) share of movements at Dublin airport has fallen from 38.2% to 36.6%, whilst Aer Lingus (EI) share has risen from 30.7% to 32.1%, maintaining the two largest carriers' share at 68.7%. Aer Arran (RE), Cityjet (AF) and BMI (BD) all increased their shares of air traffic movements during Winter 2009.

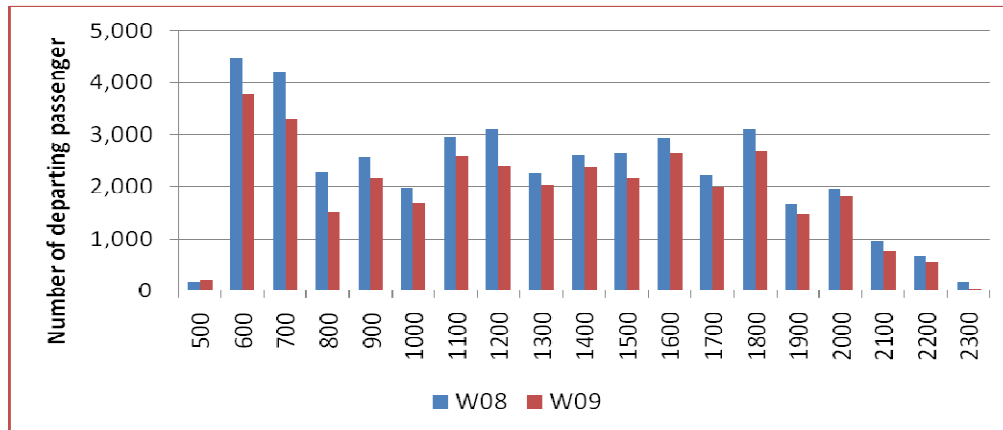
**Figure 2.3: Winter 2009 versus Winter 2008 air traffic movements by airline**



*Source: Airport Coordination Ltd (ACL)*

The purpose of introducing a slot coordination regime is to address issues arising from congestion of the airport at certain times of the day. The chart below shows how one measure of airport utilisation/congestion- the number of departing passengers per hour-varies over the day. The concentration of traffic in the peak morning hours (6am-8am) reflects the point-to-point business model of the two largest carriers at Dublin airport, where high levels of aircraft utilisation are key.

**Figure 2.4: Dublin airport total demand across the day (passengers), Winter 2009 (W09) versus Winter 2008 (W08)**



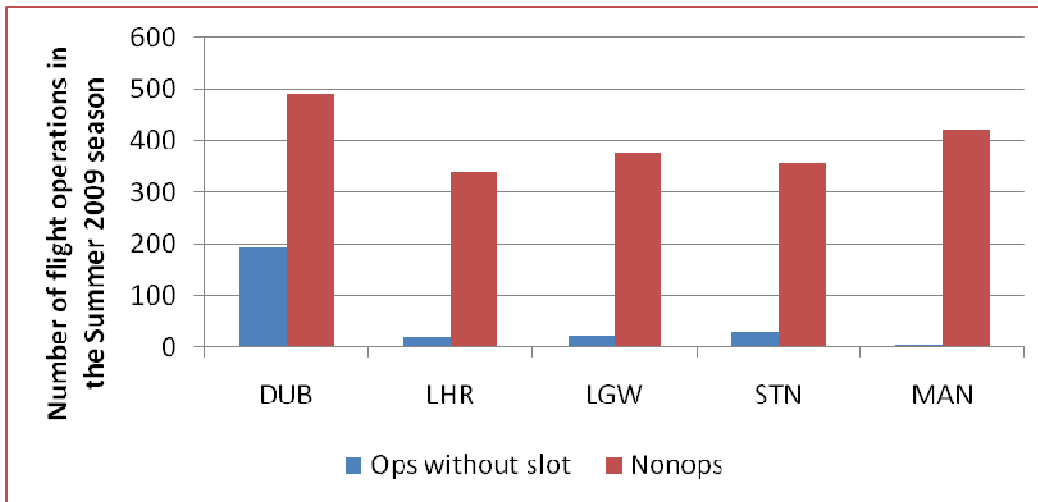
Source: Airport Coordination Ltd (ACL)

### Enforcement actions by the coordinator

As with any airport, there is potential for abuse of the slot-allocation regime at Dublin airport. Abuse can take the form of air carriers operating 'off-slot' or choosing not to operate in an allocated slot. The following chart shows the level of such operations during the Summer 2009 scheduling season, the most recent season for which outturn data is available. To put the figures for Dublin in context, there were 101,694 aircraft movements in the Summer 2009 season. Therefore, the total of 'off-slot' movements and non-operated slots (682) represents 0.7% of all movements.

As noted in the Commission's 2008 Annual Report, a large proportion of operations without a slot are General Aviation air operators (i.e. non-scheduled services), and in particular the owners of small private light aircraft that continue to operate out of Dublin. According to ACL, 42% of the Summer 2009 operations without a slot were attributable to General Aviation. The UK airports shown in the figure all operate a slot sanctions regime, including the use of fines for certain types of abuse. ACL reports from both before and after the introduction of the sanctions regimes in the UK (available on the ACL website) imply that the sanctions regime led to a reduction in the level of slot abuse, in particular flights operating off-slot, at UK airports.

Figure 2.5: Operations without a slot and non-operation of slot – Summer 2009



Source: Airport Coordination Ltd (ACL)

The current legislation governing the Commission's slots role at Irish airports only allows for the Commission to do two things: (1) determine the scheduling status of an airport; and (2) where appropriate, appoint a schedules coordinator for an airport. The Commission's powers do not extend beyond these two roles.

To the extent that potential slot abuse problems at Dublin airport need to be addressed, it remains open to the current slot coordinator, ACL, to 'take-back' or not re-allocate grand-fathered slots to carriers that break the rules. Another option is to consider the introduction of a formal slot sanctions regime at Dublin airport. Such sanctions could include the possibility of set fines for those air carriers who break the rules. Similar sanction regimes are in place at other airports, in particular in the UK. In Ireland, it is a matter for the Department of Transport as to whether or not such a regime should be introduced. In April 2006, the Commission published a consultation paper on the introduction of sanctions under Article 14.5 of EU Regulation 95/93. The purpose of the paper was to seek views from interested parties on the nature of enforcement procedures at coordinated airports in Ireland. Several parties, including the DAA, the main airlines at Dublin and ACL responded to the consultation.

There remains no formal slot sanctions regime in place at Dublin airport. The Commission will continue to liaise with the Department of Transport on the introduction of any such measures.

## Work Programme for 2010

Goal	Actions to achieve goal
<p>Ensure continued smooth operation of the current scheduling regime at Dublin airport</p>	<ul style="list-style-type: none"> <li>➤ Attendance at the bi-annual Dublin Airport Coordination Committee meetings</li> <li>➤ Regular interaction with the schedules coordinator (ACL) regarding traffic trends at Dublin airport</li> <li>➤ Tender and contract for a Dublin airport schedules coordinator to take on the role from the end of the current ACL contract (end March 2011)</li> </ul>
<p>Consider any changes to the current regime in order to provide for a better functioning system</p>	<ul style="list-style-type: none"> <li>➤ Liaise with the Department, and all other interested parties, on the introduction of a formal sanctions regime at Dublin airport</li> </ul>



# AIR CARRIER LICENSING

## The Commission's Role

The Commission is responsible for issuing the air carrier Operating Licence. Licence-holders are permitted to engage in the carriage by air of passengers, mail and/or cargo for remuneration and/or hire.

The Commission only licenses applicants whose principal place of business is in Ireland. As well as the various ownership and business requirements set out in the legislation, applicants must also meet requirements regarding financial fitness and insurance cover. The Commission monitors licence-holders' compliance with these requirements on an ongoing basis.

There are two categories of licence-holder, defined as follows:

- Category A- permitted to carry passengers, cargo and/or mail on aircraft with 20 seats or more
- Category B- permitted to carry passengers, cargo and/or mail on aircraft with fewer than 20 seats or less than 10 tonnes maximum take-off weight.

The Commission is not responsible for safety regulation. This is a function of the Irish Aviation Authority (IAA). Air carriers involved in commercial air transport operations who require an Operating Licence must first secure an Air Operator's Certificate (AOC) which is issued by the IAA.

## Licensing Activity and Compliance

At the end of 2009 there were 18 Irish airlines licensed by the Commission. During 2009, the Commission issued one new licence to a Category B operator, Premier Aviation Ltd, whilst another Category B operator, Celtic Helicopters Ltd, took the decision to voluntarily surrender its operating licence.

The Commission decided to suspend the Operating Licences of two companies during the year. One company, Premier Aviation Ltd, took the decision to sell its only aircraft and requested a suspension of its Air Operator's Certificate and Operating Licence until a replacement aircraft could be identified. The Operating Licence held by a second company,

Sky West Aviation Ltd, was suspended by the Commission following a decision by the Irish Aviation Authority to suspend the Air Operator's Certificate held by that company.

The Commission also examined in detail two applications for a Category A license during the course of 2009 which did not result in the issue of an Operating Licence.

During 2009, all existing licence holders were subject to continued monitoring regarding their compliance with the relevant legislation concerning insurance cover, ownership and control details, and financial fitness. The table below lists all licensed Irish airlines (both Category A and B) at 31 December 2009.

**Table 3.1: Air carrier licence-holders**

Category A licence-holders	Category B licence-holders
➤ Aer Lingus Ltd	➤ CHC (Ireland) Ltd
➤ Air Contractors (Ireland) Ltd	➤ Executive Helicopter Maintenance Ltd
➤ Airlink Airways Ltd T/A Private Sky	➤ Gaelic Helicopters Ltd
➤ CityJet Ltd	➤ Galway Aviation Services Ltd T/A Aer Arann Islands
➤ Comhfhorbairt (Gaillimh) T/A Aer Arann	➤ Irish Helicopters Ltd
➤ Ryanair Ltd	➤ Metro Helicopters Ltd
➤ Starair (Ireland) Ltd	➤ Premier Aviation Ltd
➤ Westair Aviation Ltd	➤ Premier Executive Jets Ltd
	➤ Premier Helicopters Ltd
	➤ Sky West Aviation Ltd

### Monitoring financial fitness of licensees

In the context of the global economic downturn, the Commission has been collecting additional financial information, usually in the form of management accounts, from Category A air carriers.

In September 2009, the Commission reviewed the scope and frequency of the information originally sought and decided that both could be reduced while still satisfying the Commission's monitoring role.

### **Online application facility**

During 2009, the airline licensing team participated in a project which commenced across all licensing and consumer protection areas in the Commission, the purpose of which is to extend the functionality of the Commission's website to provide for online applications. The chapter on *Administration and Legal Functions* provides further information on this project.

### **Ownership and Control Guidance Note**

Drawing on experience during 2008 in dealing with two complex ownership and control cases, the Commission committed in 2009 to publishing a more detailed guidance note on the ownership and control requirements of the airline licensing Regulation. The aim of the guidance note is to provide greater clarity on the regime to both new applicants and existing licence holders. Work on this commenced during 2009 the Commission expects to publish a detailed guidance note on these requirements during 2010.

### **Licence Discs and Awareness Campaign**

The Commission has required since 2007 that a licence disc be displayed in the relevant aircraft stating the name of the operator, their licence number and the aircraft registration. At the end of 2009, the Commission issued a total of 33 licence discs for 2010 to all small aircraft and helicopter operators to display in each of the aircraft listed on their Air Operator Certificates. The introduction of the licence disc is one part of the Commission's awareness campaign to remind the travelling public that they should only hire holders of a valid Operating Licence, who should be immediately recognisable by means of the disc.

**Figure 3.2: The Commission's air carrier licence disc**



In 2009, the Commission noted a significant reduction in the number of complaints received regarding unlicensed operators, when compared with previous years. This may be linked, in part, to the reduction in the number of registered helicopters, an increase in the number of helicopters for sale and a decrease in demand generally.

The Commission continues to promote awareness by advising the public to ensure their operator is licensed and highlighting the risks of travelling with unlicensed operators through its website and the issue of licence discs.

### **Liaison with other regulatory agencies**

At the end of 2009, the Commission met with the IAA with a view to formally documenting policies and procedures for airline licensing matters which involve interaction between the two Offices. The Commission will progress this workstream in 2010.

## Executive Helicopter Maintenance Limited

In November 2009, Executive Helicopter Maintenance Limited initiated judicial review proceedings against the Minister for Community, Rural and Gaeltacht Affairs and Others in relation to the award of a public service obligation air carrier contract to Aer Arran Islands involving flights to the Aran Islands. On the 16 December, upon hearing the Commission's Notice of Motion, the High Court discharged the Commission as a Notice Party from those proceedings and awarded the costs of that Motion to the Commission.

## Work Programme for 2010

Goal	Actions to achieve goal
Ensure licence-holders meet the requirements of the legislation	<ul style="list-style-type: none"> <li>➤ Scrutiny of financial and insurance information provided annually, as required by the legislation.</li> <li>➤ Requirement on some Category A licence-holders to provide more regular updates of financial fitness to the Commission</li> <li>➤ Review the operating licences of two companies in 2010</li> </ul>
Promote greater understanding of the licensing regime amongst licence holders	<ul style="list-style-type: none"> <li>➤ Publish guidance on the ownership and control requirements of the legislation</li> </ul>
Promote awareness of the licensing regime amongst the general public	<ul style="list-style-type: none"> <li>➤ Issue licence discs for 2011 for all helicopter and small aircraft operators</li> </ul>
Move to online licensing process	<ul style="list-style-type: none"> <li>➤ Complete "User Acceptance Testing" phase</li> <li>➤ Launch new system in 2010</li> </ul>



# GROUNDHANDLING APPROVALS

## The Commission's Role

A company must obtain prior approval from the Commission before engaging in ground-handling operations at Dublin, Cork or Shannon airports. Ground-handling approvals are issued for a period of five years and approval is subject to the holder satisfying certain conditions at all times. This includes compliance with legal requirements such as financial fitness, holding the necessary insurance, and technical competence. After five years, ground-handling approvals can be renewed following completion of the Commission's renewal process.

Ground-handling broadly comprises all those services required by an aircraft between landing and take-off. The main ground-handling activities include the following: marshalling aircraft, loading/unloading, refuelling, baggage handling, passenger handling, aircraft maintenance. An airline may choose to provide services for itself (self-handling), or contract with another company (third-party handling), be it an airline or a dedicated ground-handling company.

The Commission has no responsibility for dealing with passenger queries about lost or damaged baggage or more generally to arbitrate in instances of consumer dissatisfaction with a ground-handler.

## Approvals and Compliance

At the end of 2009 there were 12 approved self-handlers and 41 approved suppliers of ground handling services (or third party handlers) operating at Dublin, Cork and Shannon airports. Of the approved self-handlers, three were also approved to provide services to third parties.

During 2009, the Commission granted one new self-handling approval to the airline Jet2.com Ltd, and three new third party handling approvals to: Dublin Aerospace Limited, Nayak Aircraft Service Netherlands BV and Bond Air Services (Ireland) Limited. This was offset by three parties voluntarily surrendering their approvals: one airline company, SAS, who was the holder of both a self-handling approval and third party handling approval requested that both approvals be terminated as a change in their activities at Dublin airport meant that they no longer required the

approval of the Commission. In addition, two third party ground-handlers, Aviance UK Limited and SR Technics Ireland Limited, surrendered their approvals as they were no longer operating in Ireland. Groundhandling Approvals are issued for a period of five years. During 2009, Groundhandling Approvals held by four companies expired and were successfully renewed by the relevant airline/handling companies. Groundhandling activity is summarised in the two following two tables.

**Table 4.1: Breakdown of ground-handling licensing activity**

	Self-handlers	Third-party handlers
Situation as at 1 January 2009	12	41
New approvals issued	1	3
Revocations	0	0
Voluntary surrender of approval	1	3
Approval expired and not renewed	0	0
Situation as at 31 December 2009	12	41



**Table 4.2: List of approved ground-handlers as at end 2009**

<b>Third party-handlers</b>	
A.T.R.S. Limited	Nayak Aircraft Service Netherlands BV
ACA Air Cargo Associates Limited T/A ACA International	Oceanbridge Groundhandling Ltd (Universal Aviation)
Air Atlanta Aero Engineering Limited	OCS One Complete Solution Limited
Air Contractors (Ireland) Limited (*)	Servisair (Ireland) Limited
AirOps Ltd	Shannon Aerospace Limited
Airport Ticketing and Travel Service Limited	Shell Aviation Ireland Limited
Alpha Flight Services (Ireland) Limited	Signature Flight Support Dublin Limited
Bond Air Services (Ireland) Limited	Signature Flight Support Shannon Limited
Delta Airlines Dublin Limited	Sky Handling Partner (Cork) Limited
Derichebourg Multiservices Limited	Sky Handling Partner (Shannon) Limited
DHL Express (Ireland) Limited	Sky Handling Partner Limited
Dublin Aerospace Limited	South Aer Services Limited
EFG Inflight Limited	Specialist Airport Services (Ireland) Ltd T/A Fernley Airport Services
FBO Dublin Limited (T/A Landmark Aviation)	Tedcastles Aviation Fuels Limited
Fingal Aviation Services Ltd.	Thomson Airways Limited (*)
Gate Gourmet Ireland Limited	TNT Express (Ireland) Limited
Greencaps Limited	United Parcel Service of Ireland Limited
Hoyer Ireland Limited	US Alliance Flight Support Limited
ICTS (UK) Limited	Westair Aviation Limited (*)
Knights Cleaning Services Limited	Worldwide Flight Services (Ireland) Limited
Monarch Aircraft Engineering Limited	

<b>Self-handlers</b>	
Aer Lingus Limited	Irish Helicopters Limited
Air Contractors (Ireland) Limited*	Jet2.com Limited
CHC Ireland Limited	Ryanair Limited
CityJet Limited	Starair (Ireland) Limited
Comhfhorbairt (Gaillimh) T/A Aer Arann	Thomson Airways Limited*
Delta Airlines Inc.	Westair Aviation Limited*

*Notes: (\*) These companies hold a licence for both self- and third party-handling services. Further information on all of the licence-holders is available from the Commission's website.*

All ground-handlers are required to provide the Commission with up-to-date financial information and insurance cover details on an annual basis. Ground-handling companies providing services to third parties are required, under the regulation, to submit separated accounts.

### Other Developments

During 2008, in response to the Department of Finance’s Efficiency Review, the Commission indicated that there was scope to reduce the level of regulation in the ground-handling area. In early 2009, the Commission offered the Department of Transport proposals for a change to its current groundhandling role. A response is awaited from the Department.

### Work Programme for 2010

Goal	Actions to achieve goal
<p>Ensure licence-holders meet the requirements of the legislation</p>	<ul style="list-style-type: none"> <li>➤ Continue monitoring of ground-handling companies to ensure compliance with legislation</li> <li>➤ Assess any applications for ground-handling approvals.</li> <li>➤ 17 ground-handling approvals are due to expire in 2010. The Commission will send out renewal forms to all the relevant handlers and examine renewal applications.</li> </ul>
<p>Make sure that the ground-handling regime in Ireland is in-line with the relevant EC rules and regulations.</p>	<ul style="list-style-type: none"> <li>➤ Continue to monitor areas of interest in relation to ground-handling at EU level.</li> </ul>

# TRAVEL TRADE LICENSING

## The Commission's Role

Tour operators and travel agents are required to be licensed and bonded to sell or offer to sell overseas travel originating within the State to destinations outside the State.

The Commission:

- licenses travel agents and tour operators selling overseas travel;
- administers a bonding scheme for travel agents and tour operators;
- processes claims for refunds and repatriation in the event of a travel agent or tour operator going out of business;
- investigates instances of alleged unlicensed trading and, when necessary, prosecutes such traders.

The Commission's role does not encompass:

- licensing travel arrangements for domestic travel in Ireland;
- handling consumer complaints about travel agents, tour operators, hotels, luggage or airlines;
- handling complaints about advertising (except where it relates to possible unlicensed trading).

## Licensing Activity and Compliance

In 2009, 304 firms were granted licences by the Commission compared with 356 in 2008, a reduction of 52 or 15% for the year. Based on the Commission's interactions with travel trade companies, the decline in the number of licence holders reflects both short-term recessionary factors, as well as longer-term factors, such as the increasing trend for consumers to make their own travel arrangements directly with suppliers, mainly through internet purchasing of travel and accommodation.

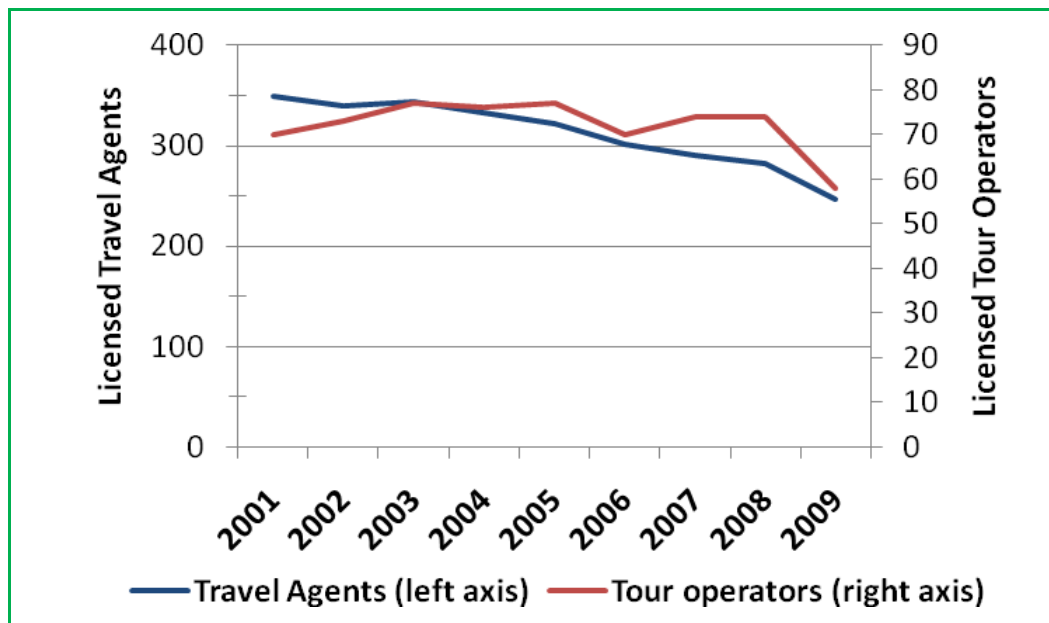
**Table 5.1: Breakdown of travel-trade licensing activity in 2009**

	Travel Agents	Tour Operators	Total
Licence-holders as at 1 Jan 2009	290	66	356
New Licences	10	3	13
Non-renewals	-37	-7	-44
Travel trade company failures	-17	-4	-21
Licence-holders as at 31 Dec 2009	246	58	304

*Note: the 2008 Annual report erroneously categorised six Travel Agents as Tour Operators, stating the total number of Tour operators to be 72 at the end of 2008. The correct figure is 66. Totals are unaffected.*

Since the establishment of the Commission in 2001, the total number of licence-holders has declined by 28%, from 419 in 2001 to 304 in 2009, as illustrated in the figure below. The bulk of the decline has been amongst licensed travel agents, where the percentage fall (30%) is significantly higher than that for licensed tour operators (17%). The impact of the recession in 2008 and 2009, verses longer-terms trends in the sector, is also evident from the figure.

**Figure 5.2: Number of travel trade licence-holders 2001-2009**



## Legal issues in the travel trade licensing area

### 1. Budget Travel Limited

In November 2009, Budget Travel Limited initiated an appeal against the Commission's refusal to grant it either a travel agent's licence or a tour operator's licence. It also initiated judicial review proceedings in relation to the same subject matter. On the 25th of November 2009 Budget Travel Limited went into voluntary liquidation. In February 2010 the Liquidator advised the Commission of his intention to abandon both the judicial review and the appeal proceedings subject to leave being obtained from the Court in that regard. The finalisation of these proceedings is awaited.

### 2. Manorcastle Limited trading as United Travel

In November 2008 the High Court heard an appeal taken by Manorcastle Limited, trading as United Travel, against the Commission's decision not to grant Manorcastle Limited a licence to trade as a tour operator. The High Court confirmed the Commission's decision and ordered that Manorcastle Limited pay the Commission's costs in that case when ascertained, those costs to be taxed in default of agreement. Manorcastle Limited failed to agree the Commission's costs or to respond to the legal correspondence on the matter and so the costs were taxed. Manorcastle Limited failed to put in an appearance before the Taxing Master of the High Court who by order dated 26th November 2009 awarded costs in the sum of €98,643.77 to the Commission. Despite demands made upon it to do so, Manorcastle Limited has so far failed to pay over the Commission's costs in that case. The Commission's legal representatives are pursuing this matter.

In a separate action, in May 2009, Manorcastle Limited, trading as United Travel, initiated a second set of proceedings appealing the Commission's decision not to grant it either a travel agent's licence or a tour operator's licence following applications to the Commission in early 2009. This appeal was abandoned by Manorcastle Limited and on 12<sup>th</sup> October 2009 the High Court awarded costs to the Commission; those costs to be taxed in default of agreement. The process of recovery of those costs by the Commission from Manorcastle Limited is ongoing.

### 3. Failte Travel Limited

In January 2009 the Commission petitioned the High Court to appoint a Liquidator to wind up Failte Travel Limited, a failed tour operator, on the basis that it owed the Traveller's Protection Fund over €1.4m. The High Court appointed Mr Declan Taite of FGS as Liquidator to commence the winding up process. In February and November 2009 Mr Taite presented the High Court with his first two reports in relation to the liquidation. On the 25 January 2010 the High Court made an order directing payment out of costs incurred to date in the liquidation by the Commission, the Liquidator and the Liquidator's solicitor, the Commission's costs to be agreed with the Liquidator. The liquidation process is ongoing.

### Introduction of the online Licence Application Form

As indicated in the 2008 Annual Report, the Commission committed itself to introducing an online Licence Application Form in 2009. This form was developed throughout the first half of 2009, and was made available for the November licensing round.

The Commission is grateful for the cooperation of the industry with this project, and to those who provided feedback on the new system.

The introduction of the online Licence Application Form for the travel trade is part of a wider project taking place in the Commission, which is discussed further in the *Administration and Legal Functions* chapter.

### Services Directive

During 2009, the Commission worked with the Departments of Transport and Enterprise Trade and Employment (DETE) in analysing the impact on existing travel trade legislation of the European Services Directive (2006/123/EC).

### Package Holiday Directive review by the European Commission

In 2009, the then European Commissioner for Consumer Affairs Ms. Meglena Kuneva initiated a review of the existing Package Holiday Directive, with a view to possibly extending to airlines the consumer protection system that applies to tour operators and travel agents. The Commission will work with the Department of Transport on an Irish response to any review (once it is published).

## The Travellers Protection Fund

The Commission is responsible for the administration of the Travellers Protection Fund. The accounts for this fund are audited by the Comptroller and Auditor General. The fund is used where the bonds provided by tour operators and travel agents fail to cover the full costs of repatriations, refunds to customers and administration costs of the Commission in the processing of claims. The amounts paid out of the fund in 2008 and 2009 are summarised below. At the end of 2009, the value of net assets contained in the draft TPF accounts was equal to €5,740,435, compared with a figure of €6,492,136 for the end of 2008.

**Table 5.3: Payment of claims from the Travellers Protection Fund**

	2009 <sup>a</sup>	2008
<b>Claims paid out from the Travellers Protection Fund</b>	€786,189	€1,585,577

*Note: (a) the 2009 figure refers to the draft TPF accounts for that year.*

## Company Failures

2009 was a difficult year for the travel trade industry with a record number (19) of company failures, accounting for 21 licenses (some companies hold both a TA and a TO licence). Since the establishment of the Commission in 2001, the total number of failed travel trade firms is 44. Therefore, almost half of the collapses since 2001 occurred in 2009.

The table below summarises the number of claims, number of customers affected, and claims paid out in respect of failed travel trade firms in 2009. Of the total number of company failures in 2009, a greater proportion occurred in the last quarter. Therefore, a number of claims for these firms are still being processed. This is particularly the case for Budget Travel Ltd, where the total value of claims paid out thus far, just short of €0.9 million, is expected to rise significantly.

Claims submitted to the Commission will typically include travel plans for a number of different individuals. In 2009, there were on average three customers for every claim received. Therefore, whilst the total number of claims received by the Commission was 4,663, the total number of customers involved was closer to 13,000. In the case of Budget Travel Ltd alone, this figure is expected to be in excess of 6,000 customers, once processing of claims is completed.

**Table 5.4: Summary of claims activity 2009**

Name of Travel Trade firm	Number of claims (*)	Average number of customers per claim	Total value of claims paid out (**)
Wondertravel Ltd	63	4	58,554
Grant Travel Ltd T/A Driftaway Travel	225	2	276,053
Mardan Ltd T/A Home and Abroad Travel	93	3	88,442
Dunne & King Travel Ltd T/A Lets Travel	17	2	16,445
The Travel Connection Ltd T/A Caribbean Collection	117	1	172,333
Cork City Travel Ltd	63	3	52,184
Portlaoise Travel Ltd	343	3	401,335
Oonagh O'Leary T/A Creation Travel	76	1	67,058
Analagh Ltd T/A Kells Travel/Swift Travel/Molloy Travel/Sundial Travel	97	3	157,075
Toolin Travel Ltd	368	3	484,642
Greystones Travel Ltd	78	3	106,311
CanAmerica Travel Ltd T/A	123	3	130,403
Paul Buckley Travel (Charleville) Ltd	29	2	24,953
Turing Ltd T/A Slattery's Travel/Stein Travel	701	2	545,686 <sup>a</sup>
Albemarie Ltd T/A Tony Bond Travel	37	3	38,103 <sup>a</sup>
Thomas & Anne Killoran T/A Killorans Travel Agency	11	1	11,420
Budget Travel Ltd	2115	3	839,725 <sup>a</sup>
Donabate Travel Ltd T/A Escape 2	75	2	0
Delta Travel Ltd	32	1	20,742
<b>Total</b>	<b>4,663</b>	<b>3</b>	<b>3,491,464</b>

*Note: (\*) Individual claims can include travel plans for a number of people. Not all claims result in a refund. (a) Claims processing for some collapsed companies is yet to be completed. The claims paid out figures quoted represent the totals thus far. (\*\*) The value of the claim does not always represent the total cost of the holiday. In some cases, claimants may only seek, or be eligible for, refunds for deposits or part-payments of the total cost of the holiday. The table relates to collapsed companies in 2009, however, some of the claims for refunds may have been issued in early 2010. The claims paid to date are up to 28 February 2010.*

It is also important to point out that not all claims for a refund received by the Commission will necessarily be eligible for a full refund. This is because in a number of cases the services purchased may not be covered



by the legislation, and therefore may not be payable from the collapsed company's bond. A common example is where a customer has purchased the accommodation element of their holiday from a travel trade company, but not the travel element of the holiday.

The Commission's claims team makes every effort to process claims for refunds quickly and efficiently. However, it is important to be aware that the circumstances relating to each collapsed company, and the claims associated with it, can often be quite different. Furthermore, the nature of the interaction involved in processing a claim means that it can often be a complex affair. This complexity can be attributed to a number of factors, including the following:

- The Commission is required to verify payments and bookings before any refund can be issued. This means that the back office systems of the collapsed company, including supplier information, booking systems, accounting systems and information on receipts and sales, need to be interrogated fully. It can take some weeks before these systems are made available to the Commission.
- Claims which include a large number of different customers, as well as a number of different payments over time (e.g. payment on account), typically take longer to process. In 2009, 51 of the claims received were for bookings for 10 or more people. Groups of 30 or more individuals on a single claim or booking are not uncommon.
- Each claim form requires the claimant to provide detailed information, including attached proof of payments. Where such information is not provided in the first instance, the processing of a claim can take longer. However, where such problems arise, the claims team maintains close contact with the claimant in order to expedite matters.
- The form of payment for the holiday itself, and the way in which such payments were processed through the collapsed company's back office system, can impact on the processing time for a claim. In addition, it is sometimes the case that credit card payments take longer to process. This arises because with credit card payments, claimants are required to submit the credit card statement showing proof of payment for the holiday, plus the relevant credit card statement to show that a charge-back has not already been received.

**Work Programme for 2010**

Goal	Actions to achieve goal
<p><b>Continue to administer the licensing and bonding scheme for travel trade companies in Ireland</b></p>	<ul style="list-style-type: none"> <li>➤ Process in a timely manner all applications for new licences in 2010</li> <li>➤ Continue to rollout the online licence application form, building on feedback from the industry in 2009</li> <li>➤ Where required, process claims for refunds and repatriation</li> <li>➤ Investigate instances of alleged unlicensed trading</li> </ul>
<p><b>Prepare for the potential impact of European legislation on the workings of the current travel trade regime in Ireland</b></p>	<ul style="list-style-type: none"> <li>➤ Liaise with the Departments of Transport and Enterprise, Trade and Employment in analysing the impact of the European Services Directive (2006/123/EC) on existing travel trade legislation in Ireland</li> <li>➤ The European Commission has indicated that it will publish a “Package Holiday Review” shortly. The Commission will work with the Department of Transport to coordinate an Irish response to the review, once published</li> </ul>

# AIR PASSENGER RIGHTS

## The Commission's Role

The Commission is the national enforcement body for the European Regulation establishing common rules on compensation and assistance to passengers in the event of denied boarding, long delays or the cancellation of flights (EC Regulation 261/2004).

Article 16 of this Regulation requires each Member State to designate a body responsible for enforcement as regards flights departing from airports situated in its territory and flights arriving into such airports from third countries<sup>1</sup> on Community-licensed Carriers.

The Commission has specific roles in the following areas:

- complaint handling
- monitoring of air carrier compliance with the Regulation
- engagement with the European Commission and other national enforcement bodies to address a harmonised application of the Regulation
- the taking of enforcement measures against non-compliant air carriers where appropriate

The Commission is responsible for enforcing the Regulation in respect of all nine Irish airports.

## Total Complaints Received

In 2009, the Commission received a total of 2,495 queries from the public. Some of these queries related to matters which fall outside of the remit of the Office e.g. queries relating to lost, delayed or damaged baggage.

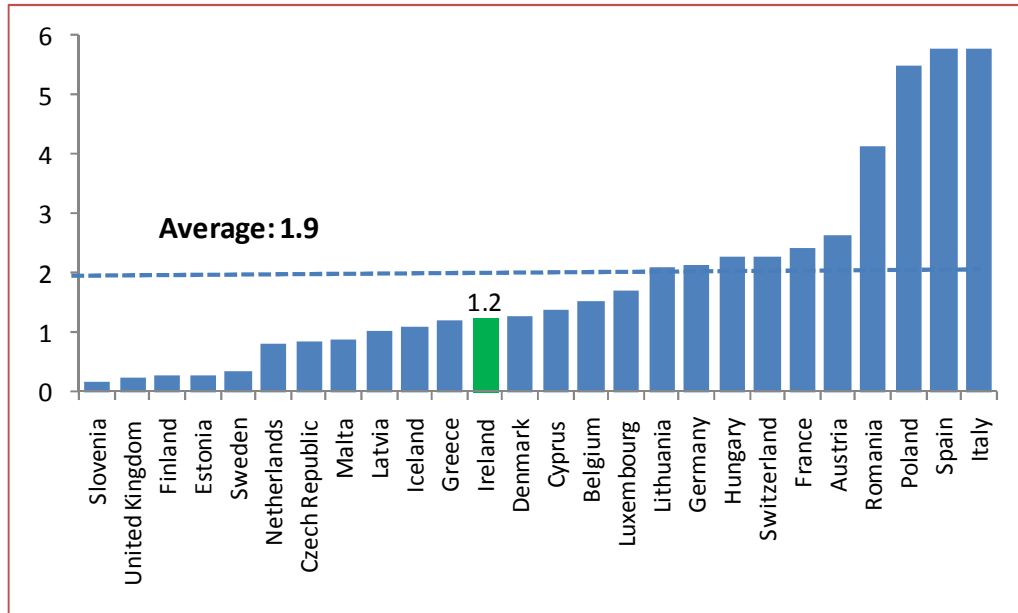
Of the 2,495 queries received, 311 constituted valid complaints under Regulation 261/ 2004. The number of complaints per 100,000 passengers

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<sup>1</sup> Third countries are those which are not party to the Treaty establishing the European Community.

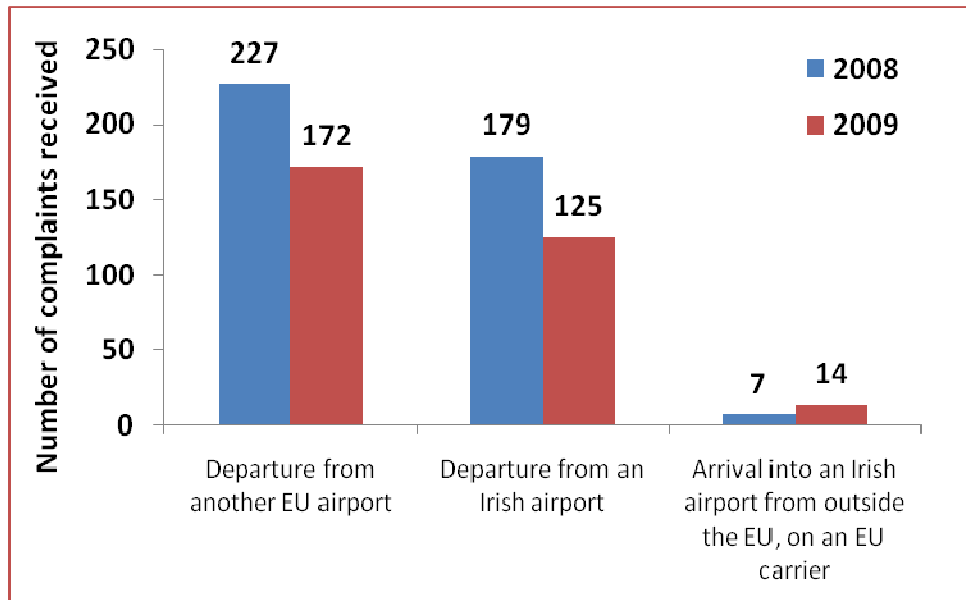
carried in Ireland is 1.2. The chart below shows how this level of complaints compares with other European countries.

**Figure 6.1: Complaints per 100,000 passengers carried, 2007 and 2008**



Source: European Commission, Statistical Returns of NEBs in respect of Regulation 261/2004, February 2010.

Of the 311 complaints received in 2009, 172 related to flights departing from an EU airport outside the State. These complaints were forwarded to the relevant national enforcement body as the airport of departure was not within the Commission’s jurisdiction.

**Figure 6.2: Breakdown of complaints received by the Commission**

Complaints which fall within the remit of Regulation 261/ 2004 are those which relate to:

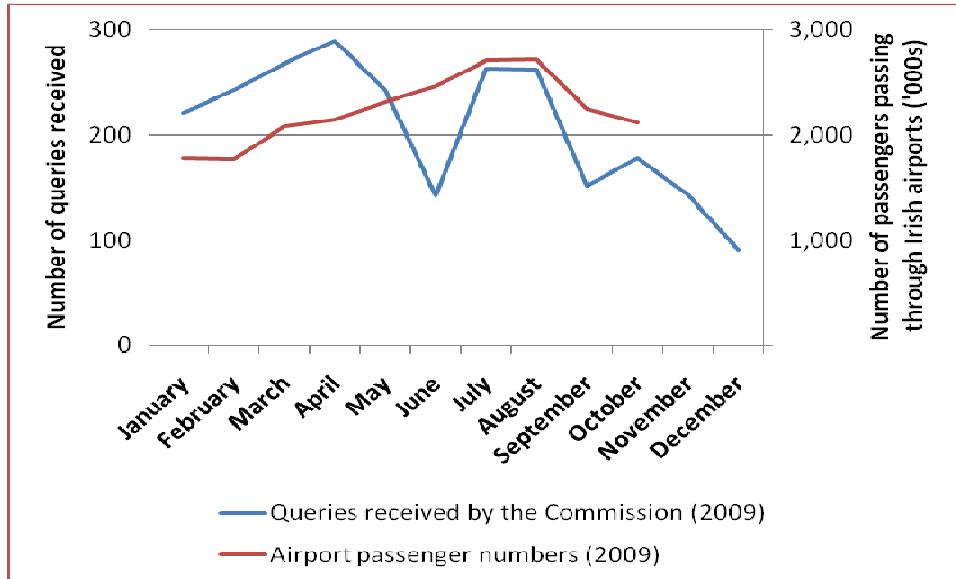
- cancellations by the air carrier
- flight delays in excess of 2 hours
- denied boarding
- downgrading

As in 2008, the majority of complaints received in 2009 related to flight cancellations and long-delays. In 2008, the share of total complaints accounted for by these two categories was 89%, as compared with a figure of 85% in 2009. A breakdown of the type of complaints received is provided in the table below.

**Table 6.3: Breakdown of complaints in 2009**

Type of complaint	Addressed by C.A.R	Addressed by other N.E.B	Total number of complaints	
Cancellations	108	96	204	66%
Long delay	10	50	60	19%
Denied boarding	21	23	44	14%
Downgrade	0	0	0	0%
Other <sup>2</sup>	0	3	3	1%
<b>Total</b>	<b>139</b>	<b>172</b>	<b>311</b>	<b>100%</b>

In terms of the pattern of queries and complaints across the year, it tends to follow the seasonal pattern in the number of passengers passing through Irish airports. The figure below shows the number of queries received in 2009 on monthly basis, alongside monthly figures for air passenger numbers in the State.

**Figure 6.4: Queries received by month, 2009**

Source: Data on airport passenger traffic for 2009 is available from the CSO.

<sup>2</sup> The "Other" category represents complaints which appear to fall within the remit of Regulation (EC) 261/2004 but further investigation will be required by the relevant national enforcement body to bear this out.

## Resolution of complaints

Of the 139 complaints received in 2009, which were appropriate to the Commission, 93 have been concluded. The final outcomes of these 93 cases is summarised as follows:

- In 13 cases compensation was obtained for the passenger;
- In 25 cases the Commission secured a refund for the passenger of the expenses incurred by them as a result of the flight disruption;
- In 20 cases the air carrier established the existence of "...extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken<sup>3</sup>" and was consequently deemed exempt from paying compensation;
- In 30 cases, the complaint was either withdrawn by the passenger or, after investigation, deemed unsustainable under the terms of the Regulation. Advice on the other complaint resolution options available was provided to the passengers in these cases;
- In five cases, the Commission recorded infringements of the Regulation. However given the nature of the infringements involved no financial redress was payable to the passengers.

The Commission continues to investigate the remaining 46 complaints.

**Table 6.5: Breakdown of resolved complaints in 2009**

Resolution	Number of complaints	% of total
Compensation paid by airline	13	14
Refund obtained	25	27
Extraordinary circumstances proven	20	22
Complaint withdrawn or un-sustained	30	32
Infringement recorded	5	5
<b>Total resolved cases</b>	<b>93</b>	<b>100%</b>

## Related activities

The Commission continued to meet with the European Commission and colleagues from National Enforcement Bodies in other member states

<sup>3</sup> See Article 5(3) of Regulation 261/ 2004.

during the course of 2009. These meetings afforded all national enforcement bodies the opportunity to discuss, in particular, the implications of some recent decisions of the Court of Justice for the European Union (CJEU) in respect of cases referred to it under the Regulation.

The CJEU's judgment in some of these cases- concluding as it did, for example, that compensation should be paid in the case of delay<sup>4</sup>- will also necessitate continuing discussions to achieve a harmonised application of the Court's decision.

Throughout 2009 the Commission continued to engage with air carriers on the subject of complaint handling and overall compliance with the Regulation. During 2009, 11 inspections across the nine airports within the jurisdiction were carried out to ensure compliance with Article 14(1) of the Regulation. Article 14(1) requires air carriers to display information at check-in and also to provide information to passengers affected by flight cancellations, delays or denied boarding. All air carriers were compliant with this requirement in 2009.

### Other important events

In 2009 the Commission participated at the Holiday World fair for its second consecutive year, with the objective of increasing public awareness of Regulation 261. The undertaking was successful in highlighting the rights of the travelling public and addressing any queries raised.

The Commission continues to ensure that its website is regularly updated and reflective of any current issues which might affect passenger rights. Its efforts to promote air passengers rights within the State appear productive per the "Barometer" survey conducted by the European Commission in 2009. This study indicates that awareness levels vis-à-vis passenger rights are on the increase in Ireland. The complete survey outcome can be reviewed by accessing the European Commission's "Europa" website.

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<sup>4</sup> Where that delay is at least three hours in duration, and where the air carrier cannot prove that same resulted from extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.



## Work Programme 2010

Goal	Actions to achieve goal
Increase public awareness of air passenger rights issues	<ul style="list-style-type: none"> <li>➤ Attend and exhibit at Holiday World 2010.</li> <li>➤ Continue to publish bi-annual reports summarising trends in complaints received.</li> </ul>
Ensure that airlines continue to comply with their obligations under EC Regulation 261/2004	<ul style="list-style-type: none"> <li>➤ Ongoing inspections of all nine Irish airports.</li> <li>➤ Where necessary, take enforcement actions against non-compliant air carriers.</li> </ul>
Ensure that the practical implementation of the regulations in Ireland is consistent with EU law.	<ul style="list-style-type: none"> <li>➤ Further analyse the CJEU judgements in respect of cases referred to it under the Regulation.</li> <li>➤ The Commission is awaiting a formal guidance note in this regard from the European Commission.</li> </ul>



# PERSONS WITH REDUCED MOBILITY

## The Commission's Role

The Commission is the national enforcement body (NEB) for EC Regulation 1107/2006, which concerns the rights of disabled persons and persons with reduced mobility when travelling by air.

The Commission is responsible for enforcement of this Regulation as regards flights departing from airports within this territory and flights into such airports from third countries<sup>5</sup> on Community-licensed Carriers.

The Commission is responsible for ensuring the satisfactory implementation of Article 8 of the Regulation, which relates to the responsibility for assistance to reduced-mobility passengers at airports.

The Commission is responsible for enforcing the Regulation in respect of all nine Irish airports.

## Total Complaints Received

During the course of 2009, the Commission received a total of 14 complaints, of which 12 related to alleged infringements of the Regulation by air carriers and two related to alleged infringements by airport management bodies. In addition the Office received numerous queries – some of which related to matters that do constitute breaches of the Regulation<sup>6</sup>.

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5 Third countries are those which are not party to the Treaty establishing the European Community.

6 This could occur because, notwithstanding the concerns which might have been raised, the passenger themselves either decided not to proceed with the booking or alternatively, proceeded to travel within the parameters permitted by the air carrier.

As in 2008, those complaints which were received varied widely in their scope, a reflection of the wide range of activities covered by the Regulation. The following is a sample of the topics upon which complaints were based:

- seating;
- oxygen carriage;
- assistance in moving to the toilet facilities whilst onboard the aircraft;
- the carriage of guide dogs and
- the transmission of requests for assistance to the airports.

All 12 investigations into the complaints have been concluded.

Financial compensation is payable under Regulation 1107/2006 only where mobility equipment or assistive devices are damaged or lost whilst being handled at the airport or transported on board an aircraft. Consequently, for all other types of complaint, the type of resolution reached will depend on the exact nature of the issue raised and whether an infringement of the Regulation was deemed to have actually occurred.

As previously mentioned the Commission received two complaints in respect of the assistance provided by airport management bodies in 2009. The first of these complaints related to the quality of equipment used to assist persons with reduced mobility. The second related to the equipment usage policies. Both of these complaints have also been concluded.

### Related activities

As the national enforcement body for Regulation 1107, the Commission is also required to engage with its counterparts in the other Member States and with the European Commission in the interests of a unified interpretation of the provisions in the legislation and a harmonised application of same. Furthermore as some of the obligations set out in the Regulation appear to conflict with pre-existing aspects of safety legislation, these meetings are vital in determining where priority must be given to Regulation 1107 and where it must be afforded to other legislation.

## PRM Levy at Dublin airport

The Commission's analysis of the PRM levy dispute which arose in 2008 continued for a large part of 2009. Notwithstanding the fact that in their submissions to this Office pursuant to CN5/2008, the relevant parties indicated a willingness to resolve the impasse, no substantive progress was made in the first half of 2009. As a result the Commission was obliged to undertake its role as the competent authority for Article 8 of the Regulation and determine whether the €0.33 charge levied at Dublin airport was in compliance with Article 8 (4) of the Regulation. On consideration all of the facts, the Commission concluded that the charge was in compliance with the Regulation and that it should stand. The Commission decision is set out in CN1/2009. The Commission continues to encourage the airport and the airlines to engage constructively on the question of costs prior to the setting of any future charge.

## Inspections

The Commission carried out 11 inspections at the nine Irish airports in 2009. Some of these took place at the beginning of the year, concluding a series of visits which had commenced in 2008. A further round of inspections was completed in the fourth quarter of 2009. The purpose of these inspections is to note the progress of any works commenced in 2008 by the airport management bodies with a view to bringing about full compliance with the Regulation. The inspections also provided an opportunity to monitor compliance on the ground by these bodies or any companies contracted by them for the purpose of providing assistance to persons with reduced mobility or disabled persons.

## Increasing Awareness

The Commission is mindful that one of its functions under this Regulation is to promote public awareness of the Regulation and the rights and entitlements which it bestows upon persons with reduced mobility and disabled persons. The Commission hosted an information stand at the Holiday World Exhibition which took place at the RDS in January 2009. It distributed information cards and responded to queries and provided information to members of the public in an informal and friendly environment. The Commission plans to undertake this activity again in 2010.

## Website Accessibility Testing

The Commission engaged the National Council of the Blind to carry out user testing on its website in March 2009. Once testing was completed, any changes which were required to ensure that the Commission’s website was accessible to disabled users were carried out. The Commission’s website now meets “Website Accessibility Initiative” (WAI) standards.

## Work Programme for 2010

Goal	Actions to achieve goal
<p>Continue to ensure that the EC Regulation 1107 is properly implemented in Ireland</p>	<ul style="list-style-type: none"> <li>➤ Deal with any complaints under Article 15 of the Regulation.</li> <li>➤ Work with other national enforcement bodies to ensure a consistent approach to complaint handling across all member states</li> <li>➤ Seek clarification at EU level regarding those aspects of the regulation that appear to conflict with pre-existing aspects of national safety regulation – which regulation has priority?</li> </ul>
<p>Ensure that airports and airlines continue to comply with the Regulation</p>	<ul style="list-style-type: none"> <li>➤ Carry out ongoing inspections of all nine Irish airports.</li> <li>➤ Engage with air carriers licensed in the State regarding the safety restrictions applicable to each in terms of their Air Operator Certificates, and also in relation to the disability, equality and awareness training undertaken by each.</li> </ul>
<p>Increase public awareness of the rights afforded by the Regulation</p>	<ul style="list-style-type: none"> <li>➤ Continue to liaise with the European Commission, other enforcement bodies and consumer rights groups to ensure that accurate information regarding the rights and entitlements of persons with reduced mobility and disabled persons when travelling by air is provided to the public.</li> </ul>

# ADMINISTRATION AND LEGAL FUNCTIONS

## Human Resources

Recruiting and retaining high quality, expert staff is key to the Commission's ability to achieving its regulatory objectives. While all of the key strategic HR decisions are carried out internally, certain non-core administrative HR functions, such as payroll are outsourced to external companies.

Recruitment activity during 2009 included filling a vacancy for a Commission accountant, as maternity cover, and recruiting a team of up to six temporary administrative staff to deal with the claims and repatriation costs arising from the large number of travel trade firm collapses in 2008 and 2009. Staff who administer claims requests are recruited on an agency basis, the costs of which are borne by the relevant collapsed firm's bond, or, in circumstances where the bond is insufficient to cover costs, through the Traveller's Protection Fund. These staff are therefore not included in the Commission's staffing complement for the year.

The Commission's average staffing complement in 2009 was 20. This figure included four staff on secondment from the Department of Transport and one member of staff on secondment from the Road Safety Authority.

Salary levels of Commission staff are set centrally and changes other than annual increments and pay reviews, where applicable, are only made with the consent of the Ministers for Transport and Finance. Salary costs for seconded staff are recouped at cost plus a set charge for superannuation and centrally provided services. All full-time Commission staff members (i.e. excluding agency staff) are obliged to join the Commission's pension scheme. The scheme is an interim scheme that has yet to receive approval from the Revenue Commissions. The Commission continues to await formal Ministerial approval from the Department of Finance to the draft statutory superannuation schemes submitted in July 2002. The interim scheme provides for benefits directly comparable to the substantive scheme as submitted. An actuarial review of the pension liabilities shows a deficit in the scheme in 2009, albeit lower than the deficit observed in 2008, €51,020 versus €261,698. The Commission expects to contribute €88,370 to the pension scheme in 2010.

In 2009, the Commission continued its policy of outsourcing non-core administrative functions relating to media relations, maintenance of the IT system (including web-hosting) and payroll. As noted in the chapter on *Price Regulation*, the Commission retained expert consultants to advise it on aspects of the 2009 Determination.

### **Administrative strategies to improve efficiency**

Building on the success of the new website which was launched in 2008, in 2009 the Commission embarked on a project to develop a fully web-based licensing application process, which would also allow for seamless collection of company accounting data. In September 2009, the Commission launched its web-based application system for travel trade licensing. The system was used by a large number of companies who applied for a licence during the October 2009 licensing round. Feedback on the new system was used as the basis for improving the system for use during the March 2010 licensing round.

The Commission is currently expanding the on-line licensing system to include licence applications in the airline licensing area. The expanded system will go fully live in 2010.

In conjunction with the on-line licensing project, the Commission is developing within the same overall system an on-line complaints submission form. The purpose of the system is two-fold: firstly, to streamline the way in which passengers can submit a complaint. Secondly, it is expected that the new system will also permit efficiencies within the Commission. These efficiencies will derive from a number of sources, notably by automatically filtering queries at an early stage into those that represent a genuine breach of the EC Regulation, and those that do not. Currently, some 40% of complaints are submitted to the Commission by email, with the remainder split almost between phone and postal queries. Current plans are for the on-line complaint system to 'go-live' in 2010.

### **Transparency and Freedom of Information**

The Commission aims to operate in a transparent manner. All consultation papers, supporting documents and regulatory decisions are published on the Commission's website, and hard copies are available at no extra charge. A list of Commission publications in 2009 is provided in Appendix 1.



In addition to publishing regulatory documents on its website, the Commission's website, [www.aviationreg.ie](http://www.aviationreg.ie), includes a large number of both current and archived administrative documents, such as the following:

- legislative documents covering all of the Commission's regulatory roles
- a list of Commission press statements and news articles
- the Commission's customer charter (Cairt Chustaiméirí)
- the Commission's Annual Reports
- annual budgets
- annual financial statements
- information on the annual levy

Over the course of 2009 the Commission received three requests for information under the Freedom of Information Acts. One request was dealt with informally due to its nature. The other requests were both part-granted.

### **Audit Committee**

The Audit Committee met 4 times in 2009. At each meeting the Committee was briefed in detail on progress within the Commission on the various work strands. The Commissioner attended all of these meetings to advise the Committee on major corporate developments. Staff of the Commission dealing with legal, administrative and accounting matters also attended meetings to discuss their work. Representatives of the Commission's Internal Auditors attended those elements of each meeting appropriate to their responsibilities. The Commission's External Auditor attended one meeting of the audit committee during the year to discuss the outcome of the audit of the Commission's financial statement.

In 2009, the primary issues that the Committee focused on were:

- review of the risk register
- review of the licensing process of the Commission
- adequacy of Internal financial controls
- review of IT security and data integrity
- updates on Travel Trade events, particularly collapses occurring during the year

### **Administrative Obligations**

The Commission makes every effort to operate to the highest standards of corporate governance. The Department of Finance's Code of Practice for the Governance of State Bodies<sup>7</sup> sets out a number of guidelines aimed at promoting good governance. Because of the nature of the its activities, as well as the structure of the Commission itself, certain aspects of the Code of Practice are not directly applicable to the Commission. The table below summarises Commission activities in respect of the Department of Finance's Code of Practice.

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<sup>7</sup> <http://www.finance.gov.ie/documents/guidelines/codepractstatebod09.pdf>

<b>Commission Code of Conduct</b>	<p>The Commission has devised an <i>Employee Handbook</i> which sets out employer expectations of staff in respect of ethical conduct and observance of policies of conduct and conditions of employment.</p> <p>Seconded staff from the Department of Transport are subject to the <i>Civil Service Codes of Standards and Behaviour</i>.</p>
<b>Internal Audit</b>	<p>The Commission appoints an external firm of auditors to undertake its internal audit function.</p> <p>Following an open tender process in 2007, Mazars were selected as the Commission's internal auditors.</p> <p>In June 2009, Mazars conducted an internal audit, focussing on the licensing process of the Commission.</p> <p>In December 2009, Mazars conducted an internal review of the Statement of Financial Controls.</p> <p>These reports, seen by the Commissioner, Heads of Function and the Audit Committee, concluded that the management of the Commission have implemented processes and control procedures that have contributed to a transparent and accountable governance process.</p>
<b>Procurement</b>	<p>The Commission's procurement procedures seek to comply with national and, where applicable, EC guidelines and directives. The value of the majority of the contracts is such that national guidelines tend to apply.</p>
<b>Disposal of assets and access to assets by third parties</b>	<p>The Commission has no assets of the scale and value envisaged under the guidelines (€150,000). No asset disposals took place during 2009.</p>
<b>Diversification</b>	<p>In the Department of Finance <i>Code of Practice</i>, "Diversification" refers to actions by the state body to reduce/increase the scope of the scale of the activities it is engaged, such as through the establishment of subsidiaries or through acquisitions.</p> <p>The Commission did not make any diversification proposals to the Minister in 2009.</p>
<b>Investment appraisal</b>	<p>The Commission is aware of the <i>Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector</i>, as published by the Department in 2005.</p> <p>The Commission did not incur any significant capital expenditure in 2009 that came within the scope of the activities as envisaged in the <i>Investment Appraisal</i> guidelines. All capital expenditure was less than €0.5m.</p>

<b>Remuneration of senior management and director's fees</b>	Please see the <i>Human Resources</i> section of this chapter for information on this area.
<b>Reporting arrangements</b>	<p>The Commission makes such reports to the Minister for Transport as prescribed by law and as required. The Commission has a fully developed accounting system, providing detailed monthly management and financial reports to senior management. The Commission adopts International Reporting Standards for its reporting. It computes its accounts on the accrual accounting system except where specified in the notes to the financial statements. These statements are audited by the Comptroller and Auditor General, as stipulated in the Aviation Act 2001.</p> <p>The Commission has measures in place to comply with the obligation to keep proper books of account. These are kept at its only office.</p>
<b>Strategic and corporate planning</b>	<p>The Commission's functions and responsibilities are set out in the Aviation Act 2001, the State Airports Act 2004 and the Aviation Act 2006.</p> <p>The Commission annually sets out a work plan for each functional area designed to satisfy their statutory obligations and meet the Commission's objectives. The Commission reports annually to the Minister for Transport the manner in which those functions have been discharged in the previous year.</p>
<b>Tax compliance</b>	The Commission is liable to PAYE, VAT and PSWT. The Commission has submitted all relevant tax returns for 2009 and is fully tax compliant.

## FINANCIAL INFORMATION

A significant driver of the Commission's budget remains legal costs. The costs of the Commission in defending appeals and challenges are in the first instance included in the Commission's levy on the industry. Where a defence is successful, the external legal costs are recovered from the other party to the case (though the Commission's in-house costs are not). In 2009, the Commission recovered €130,000 in respect of Ryanair cases heard in 2008.

### Levy

Section 23 of the Aviation Regulation Act, 2001, provides that, for the purpose of meeting expenses properly incurred by the Commission in the discharge of its functions under the Act, the Commission may make regulations imposing a levy to meet but not to exceed its estimated operating costs and expenses. The levy is payable by such classes of undertakings as may be specified by the Commission.

Regulations entitled "Aviation Regulation Act 2001 (Levy No. 10) Regulations 2009" (S.I No. 535 of 2009) were made on 17 December 2009 to give effect to the Commission's Levy for 2010.

### 2008 Financial Statements

During 2009, the financial statements for 2008 were audited by the Comptroller and Auditor General and submitted to the Minister for laying before the Houses of the Oireachtas, as required under Section 26(b) of the Aviation Regulation Act, 2001. These accounts were laid on 6 October 2009, and are available from the Commission's website.

### Draft 2009 Financial Statements

Financial statements for the year ended 31 December 2009 have been prepared, but not yet audited by the Comptroller and Auditor General. An extract from those statements is provided in the following pages.

**Commission for Aviation Regulation, Income and Expenditure account for the year ended 31 December 2009**

	Notes	2009 €, total	2008 €, total
<b>Income</b>			
Levy Receipts	2	<b>4,230,849</b>	4,085,175
Licence Fees	2	<b>246,650</b>	401,196
Other	2	<b>168,973</b>	186,425
<b>Gross Income</b>		<b>4,646,472</b>	4,672,796
Transfer from / (to) Capital Account	10	<b>11,923</b>	(26,780)
<b>Net Income</b>		<b>4,658,395</b>	4,646,016
<b>Expenditure</b>			
Salaries	4	<b>1,774,505</b>	1,732,349
Pension Costs	11	<b>118,884</b>	98,916
Consultancy		<b>484,809</b>	43,860
Legal Fees		<b>619,287</b>	638,219
Advertising & Public Relations		<b>120,871</b>	133,273
Travel & Subsistence		<b>7,013</b>	17,171
Conferences		<b>12,981</b>	21,663
Training & Recruitment		<b>29,181</b>	40,476
Audit Fee		<b>13,200</b>	13,200
Accountancy		<b>23,915</b>	28,346
Web Maintenance		<b>26,387</b>	23,912
Rent		<b>284,850</b>	284,927
Cleaning		<b>15,229</b>	13,524
Electricity		<b>10,852</b>	12,241
Office Maintenance		<b>5,443</b>	7,991
Insurance		<b>54,930</b>	64,376
Office Stationery		<b>17,606</b>	21,255
Postage & Carriage		<b>5,765</b>	6,322
Telephone		<b>25,470</b>	18,979
Schedules Facilitation		<b>299,189</b>	298,265
Depreciation		<b>20,434</b>	20,134
Service Charge		<b>41,620</b>	42,713
Rates		<b>33,677</b>	32,602
Storage Costs		<b>9,302</b>	7,536
Other		<b>21,321</b>	21,328
		<b>4,076,721</b>	3,643,578
<b>Operating Surplus</b>	15	<b>581,674</b>	1,002,438
Balance as at 1 January		<b>636,228</b>	(366,210)
<b>Balance as at 31 December</b>		<b>1,217,902</b>	636,228

The Statement of Accounting Policies, Cashflow Statement and the Notes 1 to 19 form an integral part of these Financial Statements.

*Cathal Guiomard*

Cathal Guiomard, Commissioner

Date: 05 March, 2010

**An Coimisiún um Rialáil Eitlíochta, an Ráiteas maidir le Gnóthachain agus Cailteanais  
Aitheanta Iomlána don bhliain dar críoch 31 Nollaig 2009**

**DRAFT**

	Nótaí	Deireadh bliana 31/12/2009	Deireadh bliana 31/12/ 2008
Operating surplus		581,674	1,002,438
Actuarial gain/(loss) recognised in STRGL	11	230,837	26,415
Total recognised gains/(losses) relating to the financial year		812,511	1,028,853

The Statement of Accounting Policies, Cashflow Statement and the Notes 1 to 19 form an integral part of these Financial Statements.

*Cathal Guiomard*

Cathal Guiomard

## Commission for Aviation Regulation, Balance Sheet as at 31 December 2009

	Notes	2009 €	€	2008 €	€
<b>Fixed Assets</b>					
Tangible Assets	5		<b>57,129</b>		69,052
<b>Current Assets</b>					
Bank Accounts	6	<b>25,815,806</b>		28,381,869	
Debtors and Prepayments	7	<b>964,695</b>		<u>1,166,511</u>	
		<b>26,780,501</b>		<u>29,548,380</u>	
<b>Creditors : Amounts falling due within one year</b>					
Creditors and Accruals	8	<b>(562,039)</b>		(848,182)	
Cash Bond Accounts	6	<b>(23,942,917)</b>		<u>(27,511,526)</u>	
		<b>(24,504,956)</b>		<u>(28,359,708)</u>	
<b>Net Current Assets</b>			<b>2,275,545</b>		<u>1,188,672</u>
<b>Total Assets Less Current Liabilities</b>			<b>2,332,674</b>		1,257,724
Provisions for Liabilities and Charges			<b>(1,065,430)</b>		<u>(580,391)</u>
Net Assets Excluding Pension Liability			<b>1,267,244</b>		677,333
Net Pension Liability			<b>(51,020)</b>		<u>(261,697)</u>
<b>Net Assets Including Pension Liability</b>			<b>1,216,224</b>		<u>415,636</u>
<b>Financed By</b>					
Income & Expenditure Account Surplus			<b>1,217,902</b>		636,228
Capital Account	8		<b>57,129</b>		69,052
Pension Reserve			<b>(58,807)</b>		<u>(289,644)</u>
<b>Reserves Including Pension Liability</b>			<b>1,216,224</b>		<u>415,636</u>

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The Statement of Accounting Policies, Cashflow Statement and the Notes 1 to 19 form an integral part of these Financial Statements.



Cathal Guiomard, Commissioner

Date: 05 March, 2010



**Commission for Aviation Regulation, Cashflow Statement for the year ended 31 December 2009**

	Notes	2009 €	2008 €
<b>Reconciliation of operating surplus to net cash inflow/(outflow) from operating activities</b>			
Surplus/(Deficit) on Income and Expenditure		581,674	1,002,438
Adjustment for non cash item		20,160	19,933
Depreciation	5	20,434	20,134
Bank Interest		(8,023)	(16,629)
Transfer (from) / to Capital Account		(11,923)	26,780
Decrease / (Increase) in Debtors	7	219,132	(154,288)
Decrease / (Increase) in Prepayments	7	(17,316)	19,816
(Decrease) / Increase in Creditors	8	(71,769)	231,986
(Decrease)/ Increase in Accruals	8	(214,374)	52,668
(Decrease)/ Increase in Provisions	9	485,039	(664,609)
<b>Net Cash Inflow / (Outflow) From Operating Activities</b>		<b>1,003,034</b>	<b>538,229</b>
<b>Cash Flow Statement</b>			
Net Cash Inflow / (Outflow) From Operating Activities		1,003,034	538,229
Returns on Investments			
Bank Interest		8,023	16,629
Capital Expenditure			
Purchase of fixed assets	5	(8,511)	(46,917)
Financing			
Increase in Cash Bond Accounts & TPF	6	(3,568,609)	12,299,562
Management of Liquid Resources			
Increase in Funds on Deposit	6	(1,009,808)	(718,298)
<b>Increase / (Decrease) in Cash Balances</b>		<b>(3,575,871)</b>	<b>12,089,205</b>
<b>Reconciliation of net cash flow to movements in net funds</b>			
Increase / (Decrease) in cash in hand in the period		(3,575,871)	12,089,205
Cash used to increase liquid resources	6	1,009,808	718,298
Change in Net Funds		(2,566,063)	12,807,503
Opening Net Funds		28,381,869	15,574,366
Closing Net Funds		25,815,806	28,381,869

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The Statement of Accounting Policies, Cashflow Statement and the Notes 1 to 19 form an integral part of these Financial Statements.

*Cathal Guiomard*

Cathal Guiomard, Commissioner

Date: 05 March, 2010



## Appendix 1 – Commission papers in 2009

<b>7 January 2009</b>	CP1/2009 Consultation on the decisions of the 2008 Appeal Panel
<b>23 February 2009</b>	CP2/2009 Decision by the Commission further to referral by the 2008 Appeal Panel
<b>18 June 2009</b>	CP3/2009 Draft Determination on the maximum level of airport charges at Dublin airport
<b>1 July 2009</b>	Report on Passenger Rights Complaints for the Year Ended 31/12/2008
<b>23 July 2009</b>	CP5/2009 Compliance statement on the level of aviation terminal services charges for regulatory years: 26 March 2007 – 31 December 2007 and 1 January 2008 – 31 December 2008.
<b>27 August 2009</b>	CN1/2009 Notice on PRM Charges at Dublin airport
<b>30 October 2009</b>	Report on Passenger Rights Complaints for the Period 01/01/2009 – 30/06/2009.
<b>6 November 2009</b>	CN2/2009 Notice of publication of consultancy report on T2 operating costs and Ministerial Direction
<b>4 December 2009</b>	CP4/2009 Final Determination on maximum level of airport charges at Dublin airport.