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By email only to: [adriancorcoran@aviationreg.ie](mailto:adriancorcoran@aviationreg.ie)

27th April 2023

**Re: Response to Draft W23 Declaration of Coordination Parameters**

Dear Sirs,

We refer to the above draft decision on Winter 2023 Coordination Parameters at Dublin Airport (Commission Paper 1/2023) dated 14 April 2023.

The purpose of this response is, in particular, to address the obligations arising from Planning Permission FCC Reg Ref: F04A/1755; ABP Ref No PL06F.217429 (“**the NR Planning Permission**”).

**1. CAR’s role in the process**

We refer to and reiterate the position outlined in the letter of 21 September 2022 in respect of the role of CAR and the need to take decisions which are consistent with the terms and conditions of the NR Planning Permission. As previously noted, any decision by CAR on the coordination parameters which are to be implemented during Winter 2023 should be consistent with an appropriate interpretation of the terms of the NR Planning Permission and Condition 5. We acknowledge that the terms of conditions attached to planning permission can give rise to complex questions of interpretation and note that the interpretation of Condition 5 of the NR Planning Permission has been addressed in previous decisions on coordination parameters.

**2. Engagement with the Coordination Committee, including Dublin Airport**

The position of daa in respect of Condition 5 has previously been addressed in letters dated 20 August 2021, 2 September 2021, 16 May 2022 and 21 September 2022.

Most recently, daa raised the need to deal with Condition 5 in the email of 17th April 2023 from the Secretary of the Coordination Committee, a role undertaken by a daa employee.

Further, a daa representative also raised the issue of Condition 5 at the Coordination Committee meetings in determining this draft decision for Winter 23.

**3. 3.32 of the Draft Decision**

The approach which CAR has outlined at 3.32 of the Draft Decision reflects the approach to capacity from Winter 22 and Summer 23, which means, in effect, that Condition 5 is not being considered as a constraint on capacity for W23. We note that the Draft Decision does not explain the basis for this approach. However, it is presumed that the reasoning for not considering Condition 5 in this manner is the same as that set out in previous Commission Papers for periods outside of the 92 day modelling period.

As previously explained, and reiterated above, it is incumbent on daa to take all steps necessary to ensure that there is compliance with planning permissions granted in respect of the Airport, including the NR Planning Permission.

The Draft Decision for Winter 23, acknowledges that:

*"... as particularly noted in the S23 decision in respect of Condition 5 of the North Runway planning permission, and should a determination subsequently be made such that an Operating Restriction falls to be enforced in that scheduling season in a manner which requires a reduction in operations it may be necessary for the Commission to review the affected parameters in the prevailing declaration and/or for parties not to use their allocated slots."*

daa welcomes this acknowledgement. As set out in our letter of 20 December 2022, daa wishes to emphasise that any decision of a competent authority as to the interpretation and application of Condition 5 may need to be implemented within a relatively short time frame. daa reiterates that as a public body vested with certain statutory powers, CAR is required to take decisions which are consistent with the terms and conditions of the NR Planning Permission. Accordingly, we believe that CAR should keep the matter under review and put in train contingency planning in advance of any such potential decision.

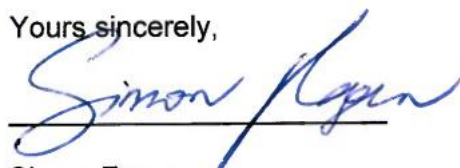
We understand from previous correspondence that there is a precedent set during Covid-19 with Local Rule A, which could be used as a basis for a mandated reduction in capacity at Dublin Airport, should the scenario arise. We request that CAR consider the application of this approach in the case of Condition 5 and the Terminals Condition as appropriate.

#### **4. Correspondence with Fingal County Council**

For completeness, daa wishes to inform CAR that it has received a warning letter from Fingal County Council ("FCC") under section 152 of the Planning and Development Act, 2000 as amended in respect of a number of operational planning issues which relate to the North Runway. daa has been engaged with FCC in respect of this warning letter and has received a request for additional information in respect of the issues raised in it. daa will continue to engage with FCC in respect of this correspondence.

In conclusion, daa will need to take all necessary steps to ensure it remains in compliance with the planning permissions referred to above. daa is available to discuss any specific queries CAR may have with regard to its approach to the NR Planning Permission.

Yours sincerely,



Simon Fagan  
Head of Economic Regulation – Dublin Airport