DUBLIN AIRPORT

Response to Commission for Aviation Regulation

Draft Decision on the second Interim Review of the 2019 Determination in relation to 2022

23rd November 2021

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Financial Impact of COVID-19

Dublin Airport's aeronautical and commercial revenues have been seriously depleted since the outbreak of COVID-19, we have faced the most financially challenging time in our eighty-year history. As a result, we had to draw on [redacted] of additional debt facilities, our net debt doubled by the end of 2020 and we expect to have used up more than [redacted] of liquidity by the end of 2021. Out of necessity daa did actively respond to this crisis, we took the decision to implement a range of cost cutting actions to safeguard the financial viability of Dublin Airport. daa employees spent a prolonged period on reduced pay and hours and a Voluntary Severance Scheme was also introduced with the aim of right sizing our business.

Pricing Response to COVID-19

Dublin Airport understands that the aviation sector in Ireland has been exceptionally hard hit by COVID-19 and that our airport customers are similarly experiencing extremely difficult trading conditions. Throughout the pandemic, we have sought to work with our airline customers in the interest of restoring viability in our industry. With the aid of Government funding, Dublin Airport has provided extensive discounts/rebates on our airport charges in order to promote traffic restoration at the airport. It is now proposed that these discounts will extend into 2022.

In regard to our pricing policy, we propose that a reasonable balance needs to be struck during these exceptional times. Transferring further financial damage from one effected stakeholder to another should be avoided, as it simply moves the problem around rather than trying to reach a workable solution for all effected stakeholders. Understating our airport charges at this difficult time will further damage the airport's precarious cashflows, with no guarantees that these savings will be passed onto consumers or have any potential for stimulating additional traffic demand at the airport.

Dublin Airport is currently unable to offset its operating costs with the aeronautical income under the current price cap, despite the recent operating cost savings and the fact that Dublin Airport's operating cost levels compare very favourably with other comparable European airports. This is combined with the fact that currently Dublin Airport's average airport charge is one of the lowest of its European peers.

Dublin Airport's Request

For Ireland to have a world-class, high quality Dublin Airport, then airport charges for 2022 and beyond need to be reassessed to correct for inaccurate underlying regulatory assumptions and to better reflect the reality of the aviation market today. Appropriate levels of airport charges are critical to the future success of Dublin Airport and are necessary to meet the required investment in sustainability, growth, passenger experience and new technology.

We are requesting that the Commission now reconsiders its proposal for a price cap of €8.00 for 2022. We refer back to 2014 when passenger traffic was 21.7m at Dublin Airport and the Commission imposed an annual price cap of €10.68 while similarly in 2015 when passenger volumes reached 25m at Dublin Airport the Commission determined a price cap of €10.26.

In view of the fact that our current traffic forecasts are projecting passenger volumes at Dublin Airport in the range of [redacted] for 2022, we believe that a price cap in the region of €10.50 per passenger would be appropriate for 2022 allowing the airport to set airport charges at a level better reflecting the cost of the provision of aeronautical services. The table below reworks the 2021 and 2022 price caps to take account of the drop in traffic volumes due to COVID-19 pandemic.

TABLE 1 REWORKING OF PRICE CAPS FOR 2021 & 2022

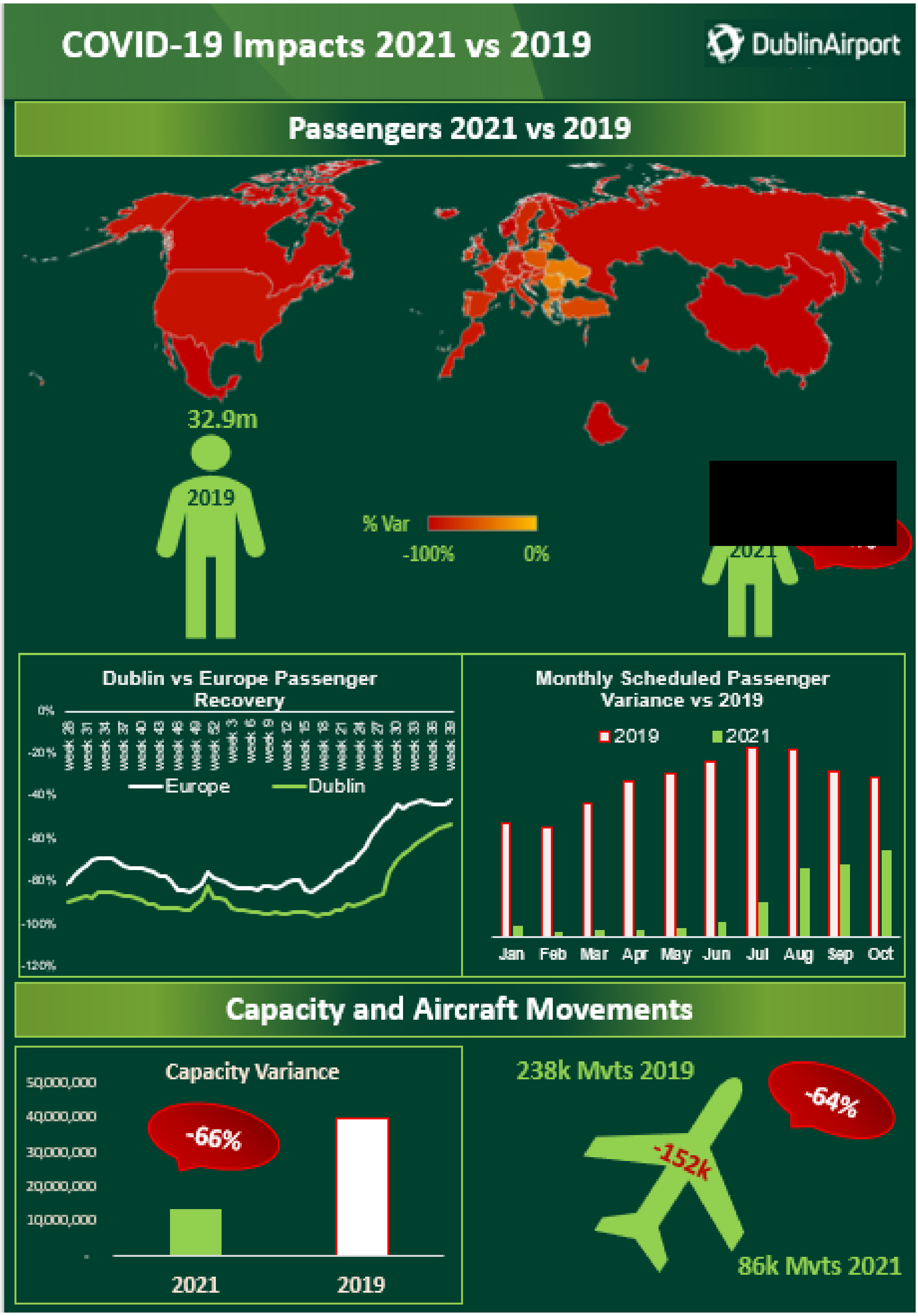
Price Cap	2021 (Forecast) €'m	2022 (Forecast) €'m
Operating Cost	[redacted]	[redacted]
Commercial Revenue	[redacted]	[redacted]
VSS cost over 2 years		[redacted]
Return of Capital (Depreciation)	[redacted]	[redacted]
Return on Capital	[redacted]	[redacted]
Required Revenues	[redacted]	[redacted]
Passengers	[redacted]	[redacted]
2021 Price Cap	**€ 28.78**	**€ 10.49**

Source: Dublin Airport November 2021

This demonstrates how the price caps are currently significantly understated. It follows that, in accordance with the various statutory requirements of both daa and the Commission, airport charges must be set to allow daa operate Dublin Airport in a financially viable manner.

[1] This is based on our latest traffic projection where we are forecasting [redacted] passengers for 2022, this may be subject to variation given the exceptional level of uncertainty in the market currently.

Impacts of COVID-19 on Dublin Airport (2021 Vs 2019)



1. Introduction

1.1 Introduction

1.1.1 Dublin Airport welcomes the publication of the Commission's paper CP2/2021 the Draft Decision on the Second Interim Review of the 2019 Determination in relation to 2022 on the 22nd October. We support the Commission's decision to carry out an interim review in 2021 in order to address the unintended consequences that the pandemic has created in respect of the 2019 Determination and specifically the price cap for 2022.

1.1.2 We welcome the fact that this review is seeking to address certain immediate consequences of COVID-19, such as the proposals to make changes to the 2019 Determination to remove the capital expenditure triggers which would have an adversely negative impact in a manner which was not originally anticipated.

1.1.3 However, we are disappointed that the Commission has decided to proceed with a limited second interim review which is proposing to deliver a third year of understated price caps for Dublin Airport. This narrow approach will fail to address the obvious misalignment of the current 2019 Determination which continues to be based on flawed assumptions which have been rendered invalid by the COVID-19 outbreak.

1.1.4 We are concerned that based on the proposed price cap for 2022, Dublin Airport will be forced to implement artificially low charges for 2022 which will significantly constrain the airport's revenues and undoubtedly will result in Dublin Airport operating at a loss for a third year in succession.

1.2 Overview of COVID-19 Impacts

1.2.1 The onset of the COVID-19 pandemic has proved to be the largest disaster which the aviation market has incurred in history. It has led to the collapse of traffic at Dublin Airport during 2020 and 2021. We are now expecting that passenger traffic at Dublin Airport for 2021 will be down some [redacted] compared to 2019, given that, we are projecting that Dublin Airport will only have in the region of [redacted] passengers this year. This means that the traffic at the airport will be back at 1995 levels with, in effect the loss of 25 years of growth.

[redacted] The impact of the outbreak of the COVID-19 pandemic on Dublin Airport's financial position has been severe with 2020 & 2021 losses after tax expected to amount to c. [redacted]. Overall, the impact of COVID-19 is anticipated to result in a [redacted] reduction in gross margin for the regulated entity in 2020 & 2021 compared to the

Commission's forecast in the 2019 Final Determination. Significant support from the Government, alongside swift action taken by Dublin Airport to reduce its cost base has mitigated the overall loss for the company at EBITDA level to an overall variance [redacted]

1.2.3 The events of the last few months have fundamentally changed all the business parameters at Dublin Airport and going forward the outlook for the timing of a recovery still remains uncertain. While the full impact of COVID-19 in the years ahead is yet unknown, it is expected that there will be profound operational and financial implications for Dublin Airport and the aviation sector as a whole.

1.2.4 The impact of the pandemic has proved particularly catastrophic for our aeronautical revenues where combining the annual price cap for 2020 with substantially reduced passenger volumes is resulting in total aeronautical revenues substantially below the required levels envisaged by the Commission under the 2019 Final Determination. Currently this differential is estimated at €194m.

1.3 Commission's Response to the COVID-19 Pandemic

1.3.1 Dublin Airport relies significantly on the revenue generated from the airport charges levied on its airline customers to fund the provision of essential aeronautical services and the development of the airport in line with our statutory duties under both the Air Navigation and Transport (Amendment) Act 1998 and the State Airports Act 2004. Our aeronautical charges are currently subject to the annual price cap for 2020 set by the Commission in its Varied Determination on the Maximum Level of Airport Charges at Dublin Airport for 2020-2024, dated 3 July 2020 ("the 2019 Determination").

1.3.2 In 2020, Dublin Airport's passengers were -78% vs. 2019 levels, while daa incurred unprecedented financial losses of €284m. For 2021 to date, passengers are [redacted] vs. 2019, with daa once again facing very material financial losses. Given the scale and severity of the crisis, it was clear from the earliest stages of the pandemic that the Commission's 2019 Price Determination for Dublin Airport (which set the airport's pricing for 2020 to 2024 and stipulated a significant 18.5% reduction in airport charges between 2019 and 2020) had effectively been rendered void. As a result, Dublin Airport found itself facing into the 2020/2021 period with a fundamentally flawed pricing structure, and airport charges that were disproportionally low.

1.3.3 While the Commission recognised that it was necessary to revisit its 2019 Determination and an initial review was undertaken during the second half of 2020 (with a corresponding decision published in December 2020). This review was, by design, a 'narrow' one, in that it was limited to 2020 and 2021 only and did not revisit any of the (now invalid) assumptions that had underpinned the 2019 Determination. The Commission simply sought to identify a limited number of short-term mitigations - which could be applied quickly - in order to address some of the most pressing distortions that the 2019 Determination was creating. At that stage, this was a broadly reasonable approach, given the ongoing uncertainty within the sector and the need for urgent action.

1.3.4 However, we are now facing into a similar limited pricing review which is proposing to deliver a third year of understated price caps for Dublin Airport. We are disappointed with this approach given that we previously stressed how a meaningful regulatory intervention was required for 2022 and beyond where the Commission would undertake an appropriately detailed price review for Dublin Airport - which would revisit all of the 2019 Determination's outdated and invalid assumptions - and deliver a credible, fit-for-purpose price-cap for 2022 and subsequent years.

1.3.5 Given the proposed price cap for 2022, Dublin Airport will be forced to apply flawed, artificially low charges for another full year – which will significantly constrain the airport's revenue base and undoubtedly result in Dublin Airport/daa Group operating at a loss for a third year running. In addition, we are disappointed that coupled with this, the Commission is also proposing that onerous service quality penalties be introduced for 2022 while failing to address the funding required to achieve the exemplary service standards that Dublin Airport has historically provided.

1.3.6 From a development perspective, there is a concern that the Commission's approach for 2022 will require that a range of critical airport improvements and developments be suspended for a third year running. The lack of future funding certainty will not just restrict capital spend in 2022 but will impact severely on the airport's ability to enter into financial commitments stretching into later years. This has potentially serious consequences not just for the airport but for the broader Irish economy given that Dublin Airport is a vital element of national infrastructure and has a key role to play in both the economic recovery and the future growth of the country post COVID-19 and BREXIT. This can only be achieved if the longer-term financial viability of the airport is protected by the Commission and the airport is enabled to meet its statutory objects[2]. The importance of infrastructure investment is also a specific statutory consideration for the Commission as set out in section 33(2)(b) of the 2001 Act, which requires the Commission to have due regard "*to the level of investment in airport facilities at Dublin*

[2] In this regard it is worth noting that at recent S&P event the UK CAA indicated that it believes that the best way for it to protect consumers was by supporting Heathrow Airport the regulated entity: https://www.spglobal.com/ratings/en/events/webcast-replays/infrastructure-utilities-conference-2020-emea-infrastructure-projects

Airport, in line with safety requirements and commercial operations in order to meet the needs of current and prospective users of Dublin Airport".

1.3.7 In its draft decision CP2/2021, the Commission has suggested that it has been supportive of Dublin Airport in the wake of the COVID-19 pandemic. While Dublin Airport did welcome a number of the measures introduced in the 2020 Interim Review Decision such as the removal of certain price cap triggers and the suspension of the service quality penalties, we believe that in the context of the financial impact of the pandemic on aeronautical revenues at Dublin Airport, the financial support provided by the Commission to the regulated entity has been limited to date.

1.3.8 The Commission stated that the 2020 Interim Review decision has resulted in *aeronautical revenue of €74m in 2020 and this will result in aeronautical revenue of €56m in 2021 if passenger numbers are in line with 2020*. While if the 2019 Determination had been left unchanged, this would have resulted in *revenue of approximately €53m in 2020 and €45m in 2021.*

1.3.9 While the 2020 Interim Review decision may have brought some financial relief for the regulated entity, this must be viewed in the context of the substantial loss in allowable revenues experienced and/or projected by Dublin Airport for the period 2020-2022 as illustrated in Table 1 and Figure 1 below.

TABLE 2 2019 DETERMINATION VS COVID-19 IMPACTS

	Pax Traffic Forecast	Total Revenue	Annual Price Cap
CAR 2019 Determination	34m	€255.2m	€7.58
2020 DAP Actual	7.4m	€73.4m	
2020 Variance	***-26.6m***	***-€181.8m***	
CAR 2019 Determination	35.1m	€272m	€7.50
2021 DAP COVID position	[redacted]	[redacted]	
2021 Variance	[redacted]	[redacted]	
2020 CAR Final Determination	36.1m	€288.8m	€8.00
2022 DAP COVID position	[redacted]	[redacted]	
2022 Variance	[redacted]	[redacted]	

Source: Dublin Airport November 2021

[3] This is based on our latest traffic projection where we are forecasting c.25m passengers for 2022, this may be subject to variation given the exceptional level of uncertainty in the market currently.

FIGURE 1 COVID-19 IMPACT ON AERONAUTICAL REVENUE

[redacted]

Source: Dublin Airport November 2021

1.3.10 Under the 2019 Determination, the Commission allowed for Dublin Airport to generate €255.2m in required aeronautical revenues in 2020 while actual aeronautical revenues were only **€73.4m** where for 2021 it allowed for required revenues of €272m and projected aeronautical revenues are now forecast at only [redacted]. Under the current price cap proposal for 2022 this shortfall in aeronautical revenues is set to continue.

1.3.11 This shortfall was due to the failure by the Commission to adjust the annual price caps since 2020 for the volume impact of the COVID-19 pandemic and as a result Dublin Airport has now had to deal with a prolonged period of understated price caps which have led to depressed aeronautical revenues.

1.3.12 In its Draft Decision the Commission refers to how Dublin Airport's EBITDA loss was just €2m (excluding exceptional items) in 2020, however it does not reference Dublin Airport's €278 million negative variance in EBITDA compared to 2019 or the €230 million shortfall in allowed EBITDA for 2020.

1.3.13 It should be noted that in fact, the published Regulated Accounts for 2020 state a Loss on Ordinary Activities before Taxation of €211.7 million for 2020 (a €363 million deterioration on 2019). The extent of this loss is unprecedented for Dublin Airport.

1.3.14 In its Draft Decision, the Commission has indicated that since the outbreak of COVID-19, it will have provided regulatory support to Dublin Airport totalling €200m -€220m over the period 2020-2022. This estimate is based on c.€65m related to price cap triggers not actioned and c.€150m of capital costs not clawed back for 2020-2022.

1.3.15 Dublin Airport believes that this is only a notional benefit given that passenger volumes throughout this period are substantially below the level necessary for the regulated entity to generate its required aeronautical revenues, therefore on this basis Dublin Airport is getting no benefit from revenues related to unspent capex retained in the RAB.

1.3.16 The Commission itself acknowledges this fact where it stated that *it is unlikely that Dublin Airport would recover the full capital costs in 2022 even on the projects it has progressed. This would be before clawing back the unspent remainder of the CIP2020-2024 allowance, which it would not have recovered at all, is considered*[4]. Furthermore,[5] it has suggested that there will be no future benefit as it stated that *We are not proposing to add unspent Capex to the RAB for future remuneration in 2023 and beyond*.

1.3.17 On this basis, Dublin Airport quantities the value of the Commission's intervention at c.€59m for the period 2020-22 rather than the overly exaggerated claim from the Commission of €200-€220m.

TABLE 3 REVENUE UPLIFT FOR 2021 AND 2022

	2020	2021	2022	Total
Passengers Actual/Forecast (m)	7.4	[redacted]	[redacted]	
Price Cap Before Review	€7.26	€6.53	€6.76	
CAR Proposal	€9.94	€7.50	€8.00	
Price Cap Uplift	€2.68	€0.97	€1.24	
Revenue Uplift (€m)	**19.8**	[redacted]	[redacted]	[redacted]

Source: Dublin Airport November 2021

1.3.18 Any increase in the price cap implemented through the removal of capex reprofiling triggers and price cap adjustments must be viewed in the context of the significant gap between actual and required aeronautical revenues over the period 2020-2021 as shown above.

1.3.19 The response of the Commission to the COVID-19 crisis in respect of the IAA and its air navigation charges contrasts quite sharply with its regulatory treatment of Dublin Airport. In its Decision on the Irish Draft Performance Plan for Air Navigation Services for Reference Period 3 (RP3) published on the 1st October the Commission completed

[4] Commission for Aviation Regulation, Draft Decision on the Second Interim Review of the 2019 Determination in relation to 2022 October 2021, Paragraph 5.43.

[5] Commission for Aviation Regulation, Draft Decision on the Second Interim Review of the 2019 Determination in relation to 2022 October 2021, Paragraph 5.42.

[6] This is based on our latest traffic projection where we are forecasting c.25m passengers for 2022, this may be subject to variation given the exceptional level of uncertainty in the market currently.

a comprehensive and full review of the regulatory settlement for the period 2020-2024 in the aftermath of the pandemic. Furthermore, the Commission also gave a commitment to recovery of lost revenues where it stated that *allowed revenue which is unrecovered in 2020 and 2021, due to the impact of COVID-19, is recoverable through adjustments to unit rates over seven years commencing in 2023*[7]*.*

1.3.20 To date the Commission has failed to carry out such a comprehensive review for Dublin Airport nor has it given any such commitments in regard to the recovery of lost revenues in 2020 and 2021 due to the COVID-19 outbreak.

1.3.21 Similarly, in the case of the CAA and the regulation of Heathrow Airport, the UK regulator has taken a more favourable approach to the regulated entity where in its recent initial proposals for Heathrow Airport's price caps for their next regulatory period 2022-2026[8], the CAA gave the following commitments

- An upward RAB adjustment of £300m to allow for the retrospective recovery of lost COVID-19 revenues
- The application of a TRS [traffic risk sharing mechanism], which will reduce the airport's exposure to future volume risk
- The provision of an allowance for asymmetric risk to ensure that the regulatory settlement remains a "fair bet"
- A higher asset beta allowance (and so a higher WACC allowance) in recognition of the likelihood of heightened risk perceptions by investors.

1.3.22 Given these contrasting approaches we believe that there is scope for more comprehensive support from the Commission for Dublin Airport in the wake of the COVID-19 crisis.

1.3.23 It should also be noted that 2022 will be a key year for S&P reviewing credit metrics as it should be the first year of "normal" activity post COVID-19. Due to both the increased debt levels and continued lower passenger levels, the credit metrics for the regulated entity will be below the threshold required to hold the current BBB+ credit rating.

1.3.24 As part of the 2019 Determination, Centrus advised that the Commission should target a 15% FFO: Net debt and 5.0x Net Debt / EBITDA. With the current level of pricing proposed, the regulated entity will not achieve either of these targets in 2022 nor in 2023.

[7] Commission for Aviation Regulation, Irish Draft Performance Plan for Air Navigation Services for Reference Period 3 (RP3) Single European Sky Regulation, October 2021, paragraph 1.4.
[8] Civil Aviation Authority, Economic regulation of Heathrow Airport Limited: H7 Initial Proposals, October 2021.

2. Price Cap Proposals for 2022

2.1 Introduction

2.1.1 The onset of COVID-19 has had a devastating impact on the aviation sector in Ireland. Against this backdrop Dublin Airport has considered its pricing response to the current crisis. Dublin Airport recognises the severe difficulties experienced by its airline customers in the wake of the pandemic. In response to this, we have introduced a traffic restoration support scheme which with the aid of Government funding, provides generous rebates on airport charges to our airline customers.

2.1.2 However, going forward, Dublin Airport is anxious to ensure that its menu of airport charges properly reflects the average cost of the provision of aeronautical services and that it provides an adequate basis for the restoration of aeronautical revenues in line with renewed traffic growth.

2.1.3 This strategy is consistent with the approach currently being adopted at many other European airports.

Table 4 European Comparator Airports Pricing

Comparator Airport	Pricing Change
Aéroports de Paris (AdP)	AdP submitted annual tariff proposals and investment plans for approval to the French Transport Regulatory Body (ART). An agreement was reached for 2021/22, in which ART accepted charges increases of: +3% for per passenger +1.48% for parking +1.58% for landing fees +2.65% for other airport charges
Finavia	Finavia is planning to increase charges by 3.5% in 2022 compared to 2021. This will be composed of a 3.9% increase in passenger charges, 2.5% increase in landing charges, and 4.0% increase in security charges.
Heathrow Airport	Price increases of 15% to 60% proposed in CAA's H7 Initial Proposals (which would result in a price cap of £24.50 to £34.40). While this is consulted on, the CAA is seeking to implement a 'holding cap' of £29.50 (+37%) for 2022, with a true-up once the final settlement is agreed.
Schiphol Airport	Schiphol has announced it plans to increase airport charges by 9% in 2022, 12% in 2023 and a further 12% in 2024.

2.2 The 2022 Price Cap

Review of the Commission's Proposal for 2022

2.2.1 In its draft decision on the Second Interim Review of the 2019 Determination in relation to the regulatory settlement for 2022, the Commission is proposing to impose an annual price cap of c.€8.00. The proposed price cap of €8.00 was calculated pre-COVID, it is based on peak air travel, which is not representative of the current aviation climate, and we believe this price cap could compromise on Dublin's ability to invest in growth and sustainability.

2.2.2 Dublin Airport believes that the proposal for a price cap of c.€8.00 for 2022 could prove very detrimental for the company. The imposition of an €8.00 price cap would limit the ability to apply any upward adjustments to airport charges for 2022 despite the requirement for an increase in our current airport charges at this difficult time. The proposed price cap of €8.00 combined with expected passenger volumes of 25m will potentially result in a further year of lower than anticipated aeronautical revenues, once again jeopardising the viability and sustainability of airport services in Ireland. Furthermore, this could undoubtedly negatively impact Dublin Airport's credit rating. Finally, if this approach were to be taken there would be no potential for stimulating additional demand in the aviation sector and no guarantee that the charging reductions will be passed onto consumers.

Table 5 2019 Final Determination Vs COVID-19 Impacts

	Pax Traffic Forecast	Total Revenue	Annual Price Cap
2020 CAR Final Determination	36.1m	€288.8m	€8.00
2022 DAP COVID position	[redacted]	[redacted]	
2022 Variance	[redacted]	[redacted]	

Source: Dublin Airport November 2021

2.2.3 From an economic perspective the table above illustrates that based on a combination of an average price cap of €8.00 per passenger and our current passenger volume forecast for 2022 our projected total aeronautical revenues will fall substantially below the required revenues projected by the Commission under the 2019 Determination. It is therefore clear that a price cap of €8.00 for 2022 is artificially low.

2.2.4 Given the impact of COVID-19 on our business and the substantive reduction in our passenger volumes there is no longer an appropriate regulatory basis to support the

[9] This is based on our latest traffic projection where we are forecasting [redacted] passengers for 2022, this may be subject to variation given the exceptional level of uncertainty in the market currently.

proposed price cap of €8.00. In addition, we believe that a price cap of €8.00 coupled with traffic volume of [redacted] million passengers will result in the regulated entity incurring losses and not earning its allowed return on its cost of capital.

2.2.5 This is evidenced when we rework the 2022 price cap based on our latest business forecasts for 2022 which look at the expected commercial revenue, operating costs and depreciation based on the opening RAB plus expected capital expenditure for 2022. This reworking which has been generated for illustrative purposes would suggest an annual price cap for 2022 in the range of €10.50.

Table 6 Dublin Airport 2021 and 2022 Price Cap Estimation

Price Cap	2021 (Forecast) €'m	2022 (Forecast) €'m
Operating Cost	[redacted]	[redacted]
Commercial Revenue	[redacted]	[redacted]
VSS cost over 2 years		[redacted]
Return of Capital (Depreciation)	[redacted]	[redacted]
Return on Capital	[redacted]	[redacted]
Required Revenues	[redacted]	[redacted]
Passengers	[redacted]	[redacted]
2021 Price Cap	**€ 28.78**	**€ 10.49**

Source: Dublin Airport November 2021

2.2.6 The above demonstrates how wholly inadequate the current price cap of €8.00 is from a financial perspective and the extent of the revenue loss which has been imposed on Dublin Airport with such an artificially low-price cap of €8.00.

2.2.7 It is reasonable to assume that at an average revenue yield per passenger of €8.00, the average revenue generated will fail to cover the average cost of providing our aeronautical services. Furthermore, there is evidentially an economic inefficient outcome where the price of aeronautical services will fail to cover the marginal cost of their provision.

2.2.8 From the regulated entity perspective this is not viable as the reduced aeronautical revenues will add to the already serious financial crisis facing the regulated entity without any guarantee that this low level of charging will have any potential for stimulating additional demand.

2.2.9 The impact of the imposition of a €8.00 price cap would run contrary to the statutory objective of safeguarding the financial viability of Dublin Airport.

[10] This is based on our latest traffic projection where we are forecasting c.25m passengers for 2022, this may be subject to variation given the exceptional level of uncertainty in the market currently.

2.2.10 Furthermore, the objective of achieving price compliance to a precise number like €8.00 per passenger is going to prove very difficult in the current unpredictable environment which has rendered passenger traffic forecasting almost impossible in the short term where our latest forecast for passenger traffic in 2022 is projected to change in the coming months given the ongoing uncertain of the aviation market.

Dublin Airport's Request

2.2.11 As outlined above we believe that the Commission's current proposed price cap of €8.00 for 2022 is artificially low, wholly inadequate and disproportionate given Dublin Airport's current financial position.

2.2.12 While early in 2021 we set out and discussed with the Commission our preference for a meaningful regulatory intervention for 2022 and beyond, where the Commission would undertake an appropriately detailed price review for Dublin Airport, we understand that unfortunately such a review is now no longer possible for 2022 given the time constraints which puts Dublin Airport at a considerable disadvantage. However, we look forward to engaging with the Commission on the commencement of this detailed review in 2022.

2.2.13 We would now ask that the Commission reconsiders its proposal for a price cap of €8.00 for 2022. We would like to refer back to how in 2014 when passenger traffic was 21.7m at Dublin Airport the Commission imposed an annual price cap of €10.68 while similarly in 2015 when passenger volumes reached 25m at Dublin Airport the Commission determined a price cap of €10.26.

2.2.14 In view of the fact that our current traffic forecasts are projecting passenger volumes at Dublin Airport in the range of [redacted] for 2022, we believe that a price cap in the region of €10.50 per passenger would be appropriate for 2022 allowing the airport to set airport charges at a level better reflecting the cost of the provision of aeronautical services which we believe is a fairer more proportionate reflection of the regulated entity's financial requirements.

Legal Reasons Supporting Dublin Airport's Request

2.2.15 Furthermore, we strongly believe that a 2022 price cap in the region of €10.50 per passenger is legally required for the following reasons in particular.

(i) Statutory Objectives

Firstly, we refer to the statutory objectives and considerations as summarised below.

The Commission's Statutory Objectives

2.2.16 Section 33 of the 2001 Act sets out the regulatory objectives to be met by the Commission in setting airport charges. Section 33(1) of the 2001 Act provides that: "*In making a determination the objectives of the Commission are as follows-:*

(a) to facilitate the efficient economic development and operation of Dublin Airport which meet the requirements of current and prospective users of Dublin Airport";

(b) to protect the reasonable interests of current and prospective users of Dublin Airport in relation to Dublin Airport",

(c) to enable daa to operate the develop Dublin Airport in a sustainable and financially viable manner."

2.2.17 We submit that the Commission's proposal for a price cap of €8.00 for 2022 is contrary to these objectives, as properly interpreted in this context. As regards objective (a), Dublin Airport cannot operate or develop as needed to meet demands where 2022 airport charges make it loss-making for a third consecutive year. As regards (b), understated airport charges and a worsening financial position is clearly not in the interest of users, particularly in the long term. As regards (c), understated airport charges prejudice the viability of Dublin Airport. For these reasons in particular, we cannot reconcile the proposal for a price cap of €8.00 for 2022 with the Commission's statutory objectives.

2.2.18 In addition, in accordance with section 33(2) of the 2001 Act, in making a determination, the Commission is obliged to "*have due regard to" the below quoted matters* including the cost competitiveness of airport services at Dublin Airport:

"(a) the restructuring including the modified functions of daa

(b) the level of investment in airport facilities at Dublin Airport, in line with safety requirements and commercial operations in order to meet the needs of current and prospective users of Dublin Airport,

(c) the level of operational income of daa from Dublin Airport, and the level of income of daa from any arrangements entered into by it for the purposes of the restructuring under the State Airports Act 2004,

(d) costs or liabilities for which daa is responsible,

(e) the level and quality of services offered at Dublin Airport by daa and the reasonable interests of the current and prospective users of these services,

> *(f) policy statements, published by or on behalf of the Government or a Minister of the Government and notified to the Commission by the Minister, in relation to the economic and social development of the State,*
>
> *(g) the cost competitiveness of airport services at Dublin Airport,*
>
> *(h) imposing the minimum restrictions on daa consistent with the functions of the Commission, and*
>
> *(i) such national and international obligations as are relevant to the functions of the Commission and daa."*

2.2.19 We submit that the Commission's proposal for a price cap of €8.00 for 2022 is contrary to the legal requirement to have due regard to the above considerations. In particular, it appears to us that the latest evidence on the income, costs and cost-competitiveness of Dublin Airport (as per (c), (d) and (g) above) has not been given adequate consideration in formulating a proposal which is liable to make Dublin Airport loss-making in 2022, despite significant cost-cutting and efficiency measures taken.

2.2.20 In its operation and development of Dublin Airport, daa must act in accordance with a number of statutory objectives relating to Dublin Airport under both the Air Navigation and Transport (Amendment) Act 1998 and the State Airports Act 2004. The Commission is subject to an implied legal duty not to interfere with fulfilment of same.

2.2.21 daa's principal objectives, as set out in section 8 of the State Airports Act, are to "*manage, operate and develop" and "ensure the provision of such services and facilities as are, in the opinion of the company, necessary for the operation, maintenance and development of its airports*..." and section 23(1) of the Air Navigation and Transport (Amendment) Act 1998 of which Section 23 provides, inter alia that the principal objects are "to take all proper measures for the safety, security, management, operation and development [of Dublin Airport] "*to promote investment at its airports*". Section 23(3) also provides "*the company shall have the power to do anything which appears to it to be requisite, advantageous or incidental to, or which appears to it to facilitate, either directly or indirectly, the performance by it of its functions as specified in this Act or in its memorandum of association…"*.

2.2.22 We are seriously concerned that the Commission's proposal for a price cap of €8.00 for 2022 will conflict with these objectives and in particular daa's responsibility to ensure the provision of services and facilities of the desired standard at Dublin Airport, to the detriment of our many stakeholders.

(ii) Insufficient Factual Support for Proposed Price Cap of c.€8.00

2.2.23 Secondly, we are concerned that the Commission's proposal is not in line with its statutory obligation to ensure that its decisions are supported by sufficient evidence. The required evidence must be robust and up-to-date, noting how all 2019 Determination Building Blocks have been catastrophically impacted by COVID 19 (as summarised in Table 6). We call upon the Commission to disclose the evidence it is relying on, as it is our view that the relevant evidence supports Dublin Airport's request for a 2022 airport charge in the region of €10 rather than the Commission's €8 proposal. While we appreciate that the Commission has not yet undertaken a full review of the Building Blocks, its decision must be supported by sufficient evidence.

(iii) Different Legal Considerations in Re-Opening & in Re-Setting A Price Cap

2.2.24 Thirdly, we are concerned that the Commission's proposal may be based on an illegitimate consideration, namely a concern regarding the fairness of within-period risk assignment. We submit that this is only a legitimate consideration in deciding whether there are substantial grounds to carry out an Interim Review, and not in deciding on the appropriate level of re-set as part of an Interim Review. We note that any such concern does not fall under the permissible statutory objectives and considerations in making a determination.

2.2.25 The Commission's proposal to carry out an Interim Review and re-open the price cap, notwithstanding the above concern, is appropriate because adverse impacts to date have been so far beyond the limits of any intended assignment of risk to Dublin Airport. Once an Interim Review is commenced, a decision on a new 2022 price cap should not be limited by any constraints other than the relevant statutory objectives and the availability of sufficient evidence.

(iv) Importance of Legislative Purpose of Airport Charge Regulation

2.2.26 Finally, we are concerned that the Commission's Draft Decision does not demonstrate how the proposed 2022 price cap of c.€8.00 is justified by and proportionate to the Commission's overarching legislative purpose of ensuring that Dublin Airport cannot exert market power by setting excessive charges which are out in line with a competitive market and making monopoly profits. It is not clear to us how a price cap which is liable to make Dublin Airport loss-making in 2022 can be justified by an objective of preventing abuse of market power.

3. Proposals for Triggers and Adjustments for 2022

3.1 Introduction

3.1.1 In its draft decision, the Commission has proposed the continued removal of the Capex reprofiling triggers and the Opex passthrough mechanism, the suspension of the Capex clawback mechanism and the commercial revenue rolling schemes and the retention of the requirement to consult on the progression of further CIP2020-2024 projects with an expected final cost of more than €4m.

3.1.2 The Commission is also proposing the reintroduction of the CPI price cap adjustment and financial penalties for any breaches of the service quality metrics set out in the 2019 Determination.

3.2 Inflation Adjustment

3.2.1 Dublin Airport supports the reintroduction of the CPI adjustment in the price cap for 2022. Given that the regulatory model is set in a constant price level and in the case of the 2019 Determination formulated back in February 2019 prices, it is appropriate and intended that a CPI adjustment should be applied through the price cap formula to maintain the real value of the annual price cap.

3.3 K Factor

3.3.1 Dublin Airport requests that the Commission also reinstates the K factor term in the regulatory formula to allow for a limited carry over of under recovered revenues against the annual price cap. We believe that this is appropriate and necessary given the high level of uncertainty in the market and that it is currently extremely difficult to forecast passenger numbers making it almost impossible to project annual airport charges revenue with accuracy.

3.4 Capital Expenditure Reprofiling Triggers

3.4.1 Dublin Airport welcomes the draft decision by the Commission to remove the capital expenditure reprofiling triggers originally included in the price cap for 2022. Given the current adverse circumstances impacting Dublin Airport, there is a need for greater reflexibility regarding the timelines and associated penalties fixed for the relevant capital projects. Dublin Airport believes that the capital expenditure reprofiling triggers originally included in the price cap formula for 2022 would be unnecessarily rigid and potentially penal for the company in 2022 given the current market circumstances.

3.4.2 The outbreak of COVID-19 had a drastic effect on capital development at Dublin Airport and there is a concern that due to the recent market upheaval, Dublin Airport could fail to reach some of the capital investment targets set for2022.

3.4.3 In addition, the continued use of these capital expenditure reprofiling triggers could provide Dublin Airport with a perverse incentive to continue progressing capital development projects at a time when it may be appropriate to be more selective with our capital programme and prioritise certain projects of higher or more urgent necessity given our current challenging business environment.

3.4.4 Retention of these measures in the price cap formula could result in some or all of these reprofiling triggers coming into effect, where this could lead to a substantial reduction in the price cap, creating additional losses in aeronautical revenues and adding to the growing financial crisis facing the company.

3.5 Clawback of Capital Expenditure

3.5.1 Dublin Airport welcomes the proposed suspension of the clawback of allowed capital costs associated with unspent Capex for 2022.

3.5.2 The Commission in its draft decision has suggested that the impact of not clawing back capital costs for 2022 is cumulative across 2020 to 2022 and if Dublin Airport were to spend a further €100m in 2022 against the CIP2020-2024 allowance of €423m, we estimate that the further quantum of allowed remuneration not subject to clawback, as a result of extending this approach into 2022, to be c€77m.

3.5.3 While Dublin Airport accepts that theoretical this may be correct, however in this instance the point is not valid given that the Commission's presumption is based on Dublin Airport earning its full allowed revenue requirement. However as shown above based on passenger volumes of [redacted] for 2022, we are only expecting to earn some [redacted] of our required revenues therefore we will not be earning a return on unspent capex in 2022 just as we did not earn this return previously in 2020 and 2021.

3.5.4 It is also unclear how any regulatory model could seek to claw back an additional notional amount of €77m when currently under the price cap model the Commission's approved capital investment **pre-2020** is currently not being remunerated. As illustrated in the table below, total airport charges in 2020 and 2021 were almost [redacted] lower than the required return on the pre-2020 RAB alone, before even considering additional capital investment or operating costs in this period.

Table 7 Shortfall in Capital Remuneration for 2020 and 2021

	2020	2021	Total
Passengers Actual/Forecast (m)	7.4	[redacted]	
Total Airport Charges (€m)	73.4	[redacted]	[redacted]
Pre-2020 RAB Return[11] (€m)	145.6	[redacted]	[redacted]
Shortfall (€m)	**(72.2)**	[redacted]	[redacted]

Source: Dublin Airport November 2021

3.5.5 Dublin Airport has also estimated that over [redacted] in capital costs will not have been remunerated in the period 2020-2022 under the current price cap model. This compares to €150m in capital allowances that the Commission is claiming that the existing regulatory model should seek to claw back if not for their current regulatory intervention.

Table 8 Capital Remuneration for 2020-2022

	2020	2021	2022	Total
Passengers Actual/Forecast (m)	7.4	[redacted]	[redacted]	
CAR Capital Allowance per pax	€5.38	[redacted]	[redacted]	
Capital Allowance Earned (€m)	39.8	[redacted]	[redacted]	[redacted]
Pre-2020 RAB Return[12]	145.6	[redacted]	[redacted]	[redacted]
2020-2024 RAB Return (est.)	10.3	[redacted]	[redacted]	[redacted]
Shortfall (€m)	**(116.2)**	[redacted]	[redacted]	[redacted]

Source: Dublin Airport November 2021

3.6 Impact of COVID-19 on 2019 Determination Capex in 2021

3.6.1 This will be the second interim review required due to the impact of COVID-19 on the capital investment programme. The impact of COVID-19 in the first half of 2021 could be described as the most severe on our passenger numbers. However, we were able to progress several key projects as they were deemed critical national infrastructure under COVID-19 health legislation.

[11] As per Commission for Aviation Regulation, 2019 Determination Model.
[12] As per Commission for Aviation Regulation, 2019 Determination Model.

3.6.2 COVID-19 has had a severe impact in 2021, but the recovery has started in the second half of 2021 and will gather momentum into 2022. Dublin Airport will need to be as flexible and agile as possible to facilitate this momentum fully.

3.6.3 COVID-19 is impacting the delivery of a large number of projects due to government travel restrictions (which have now been lifted), as well as the requirements for social distancing on construction sites (ongoing with additional sanitation and testing), which are imposing additional challenges to project delivery. This is evidenced by our HBS Terminal 1 (CIP.20.07.031) StageGate 2 submission seeking an adjustment to the allowance due to the disruption caused by COVID-19.

3.6.4 The suite of CIP 2020 projects is still valid for 40mppa; however, the timelines will be extended in line with the forecast passenger growth post-COVID-19. There will also be the opportunity for stakeholders to engage further in the validity of the suite of projects in the forthcoming full building blocks review that will take effect from 2023. It is essential to progress Asset Care and Maintenance projects now to keep the airport safe, efficient and minimise operations disruption and remain in compliance with daa's statutory objectives. It is also essential to develop projects to enable the airport to ramp up operations to match the forecast increase in demand in 2022. Given that these projects will be progressed during 2022, Dublin Airport anticipates that the allowances will be retained as per the 2019 Final Determination.

3.6.5 We have €1.29bn of projects that are included in the StageGate process, so for 68% of CIP 2020, there already exists a process of consultation with stakeholders to address capex. In the other projects that are >€4m we require flexibility to react to the needs of our stakeholders during this period of great uncertainty and change in 2022. There may be a requirement to accelerate a project to help facilitate airline growth that could not be known now. The imposition of a full consultation to get approval for this project would place too great of an administrative burden on Dublin Airport. It could also mean that the opportunity is lost to progress the project with possible negative commercial consequences.

3.6.6 With regard to the above it is important to note the principal statutory objects of Dublin Airport as set out in section 8 of the 2004 Act are to "*manage, operate and develop" and "ensure the provision of such services and facilities as are, in the opinion of the company, necessary for the operation, maintenance and development of its airports*...", section 23(1) of the 1998 Act also sets out the principal objectives. Section 23 provides, inter alia that the principal objects are "to take all proper measures for the safety, security, management, operation and development [of Dublin Airport] "*to promote investment at its airports*". Under section 33(2)(b) of the 2001 Act, the Commission is required to have due regard "*to the level of investment in airport* *facilities at Dublin Airport, in line with safety requirements and commercial operations in order to meet the needs of current and prospective users of Dublin Airport*".

Capex requirements 2022

3.6.7 In order to maintain safe operations, drive efficiency and react in this year of rapid change, it is essential to progress certain capital development projects and have the flexibility to respond to currently unknown needs. There are two broad categories for projects that we are presently progressing from CIP 2020.

(a) The first category are projects that had commenced in advance of the current COVID-19 pandemic, and these projects should continue as they are essential and are currently on site. These projects are ultimately required to maintain safe operations at the airport (irrespective of passenger numbers), and deferring them at this point in their development would not be an efficient use of capex and would result in nugatory expenditure. Examples of projects in this category are:

- RWY 16/34 Lighting for Low Visibility Procedures (LVP) (CIP 20.01.099 - €5.5m) is essential for introducing North Runway to allow Runway 16/34 to be used as a low visibility taxiway to efficiently manage traffic flows on the airfield. This is an enablement project for the Critical Taxiway North project.
- Passenger Boarding Bridges (Maintenance & P3 Enhancement) & FEGP (CIP 20.02.004 - €17.2m), a portion of this project is also essential to complete the replacement of the FEGP on Pier 4 (including replacement of cable carrier system), which is required to remove the risk of intermittent failures of the existing life expired FEGP on Pier 4 and the associated safety and operational risks. This is also essential to meet the proposed Commission SQMs post any COVID-19 relaxation.

(b) The second category are projects that are required to keep the airport operational and/or address regulatory requirements. These projects are necessary to replace existing life expired assets that are failing and need to be upgraded to maintain operations. If they are not addressed, they will increase safety risk and operational disruption. Examples would include;

- Medium Voltage (MV) Electrical Network (CIP 20.02.001 - €6.3m) – MV testing has shown weakness in the airfield MV cable and needs to be replaced by 2021 in order to remove the risk of unplanned power failures. In addition, the current MV SCADA system will no longer be supported beyond the end of 2020, and this also needs to be replaced to ensure continuity.

- Lift Upgrade Programme - Terminal and Multi-Storey (CIP 20.02.005 - €6.2m) is essential to replace existing life expired lifts and maintain proposed Commission SQMs post any COVID-19 relaxation.

3.6.8 As traffic increases, the opportunity to progress projects with minimal operational disruption is reduced; this coupled with increased revenue and optimistic forecasts in 2022 may prompt the short notice acceleration of projects or elements to realise the most efficient delivery. The consultation process will remove the opportunity to react to these situations as it will delay timelines as approval is sought and create uncertainty if the project will be approved.

3.6.9 Dublin Airport is a commercial entity, and one of its statutory obligations requires daa to operate in a commercial manner, this statutory objective is somewhat mirrored by the Commission's statutory objective to '… enable daa to operate Dublin Airport in a sustainable and financially viable manner'. Dublin Airport has met this commercial mandate. This has been demonstrated throughout the COVID-19 crisis by restraining capex to the minimum except for the two major projects on-site and committed to at the time (North Runway and HBS). We are only progressing capex where it is essential to maintain safe operations, drive necessary efficiency, and ask for the flexibility to respond at short notice to deliver projects in 2022 that best serve the regrowth of our customers.

Review of The Commission's proposal

3.6.10 We agree with the Commission's position regarding unspent capex in 2020, 2021 and 2022 not being clawed back based on a downside position in other areas. At the same time, we do not disagree with the Commission's proposal concerning progressing substantial capex in 2022 in principle (subject to qualifications/suggestions in the above sections), where we must reach an agreement with airport stakeholders. However, we suggest that the €4m (or part thereof) capex threshold proposed is very low and does not represent substantial capex.

3.6.11 Furthermore, a large number of consultations represents an inordinate level of time investment by Dublin Airport, Airport users and the Commission when we are preparing for the 2023 full building blocks interim review of the CIP 2020 determination. This will place a considerable burden on the Dublin Airport team and place an additional layer of work and time with no real meaningful gain.

3.6.12 We agree with the exclusion of Appendix G ('Other Projects') and the exclusion of PACE projects with the exception of South Apron Stands Phase 2.

3.6.13 We also suggest that stakeholders staying silent on capex should represent agreement; otherwise, it may be challenging to achieve the 50% threshold proposed.

Dublin Airports request

3.6.14 A significant amount of consultation was completed for CIP 2020 in both 2018 and 2019, including face to face consultation representing a total of 28 hours of meetings, with 26 attendees from 8 airlines. We believe the threshold of €4m for additional consultation should be increased. Additional consultation of projects at the €4m threshold proposed would be an inefficient use of resources given that best practice indicates that regulation should be proportionate and not impose unnecessary burdens on the industry, particularly during a time of crisis.

3.6.15 A significant amount (c.70%) of the projects above €4m are already flexible. It is essential that we maintain some flexibility on capex delivery to efficiently manage the airport operation and remain flexible to react to the regrowth in traffic next year. Removing 70% of capex flexibility would have a detrimental impact on the development and operation of the airport. Most projects under €8m are asset replacement projects and projects that are essential to keep the airport operational and efficient, e.g.

- Small Energy Projects (CIP 20.02.013 - €5.4m)
- Campus Roads Critical Maintenance (CIP 20.01.034 - €6.5m)
- Airport Water & Foul Sewer Upgrade (CIP 20.02.006 - €4.9m)
- Lift Upgrade Programme (CIP 20.02.005 - €6.2m)
- IT Network Components- Lifecycle & Growth (CIP 20.05.009 - €6.8m)

3.6.16 We believe that the threshold for additional consultation should be increased to €8m. This will give a balance between protecting airport user interests (from unjustified Dublin Airport spending) and giving Dublin Airport the flexibility to react to facilitate the regrowth of airport traffic in 2022 and placing an additional layer of work and time with no real meaningful gain.

3.6.17 Dublin Airport has already demonstrated that it functions as a commercial entity during the COVID-19 crisis by not seeking to progress projects unless required to fulfil safety or regulatory compliance and if already commenced before the pandemic. We have taken on large amounts of debt during this period and focus on being financially prudent and only progressing projects that facilitate the projected 2022 regrowth.

TABLE 9 TOTAL NUMBER OF PROJECTS AND TYPE BASED ON DIFFERENT THRESHOLD VALUES

	Number of projects	Flexible projects	Deliverable projects	StageGate projects
Total <=€4m	44	40	3	1
Total <=€5m	61	53	7	1
Total <=€6m	70	60	9	1
Total <=€7m	75	63	11	1
Total <=€8m	77	65	11	1
Total <=€9m	81	68	12	1
Total <=€10m	83	70	12	1

3.7 Reintroduction of Service Quality Metric Penalties

3.7.1 In its draft decision the Commission is proposing to reintroduce the financial penalties associated with the Commission's service quality metrics for 2022. We are disappointed with this decision for a number of reasons, currently there are a number of serious ongoing issues pertaining to our passenger security screening process and the delivery of PRM services both of which are likely to impact adversely on our service quality performance in 2022. We also feel that it inappropriate to reintroduce a number of the passenger facing SQMs in their pre-COVID form in 2022 given the practical difficulties of gathering representative samples across the different types of passengers relevant to the quality of service regime.

3.7.2 Despite our views on the reintroduction of financial penalties for service quality in 2022, we will continue to endeavour to focus on maintaining appropriate quality of service in our airport and we will provide the Commission with data relating to our service performance where possible.

3.7.3 We do believe that the reintroduction of a penal service quality regime is inappropriate and disproportionate particularly given the likely negative impact on the company's finances at a time when the airport is struggling to regain financial stability and return its business to growth.

Provision of PRM Services

3.7.4 As a result of COVID-19, the OCS and PRM operation at Dublin Airport was dramatically reduced and the majority of OCS staff were let go over the period 2020-2021. The PRM operation has faced significant challenges with regards the ability to ramp up/down in response to passenger demand. We have seen increased processing times with regards to Garda vetting for AIC applications with a number of examples of staff members waiting in excess of 40+ days for clearance. In addition, it has become increasing difficult to employ staff due to a number of factors including the continued existence of the PUP payment scheme. This challenge is not PRM specific and has been seen with other suppliers and stakeholders.

3.7.5 Historically, PRM passengers have accounted for 1% of total passenger numbers. Whilst each month would fluctuate slightly, when averaged out over the year we would be at approximately 1% for the 12-month period. As a result of COVID-19, the presentation of PRM passengers as a percentage of total passengers has been very much outside of the norm, with a great deal of fluctuation. Normal trends have not been followed as we enter a period of growth and exit the pandemic. For example, if we take October 2021 as a sample month the fluctuation day by day is significant with PRM's accounting for as much of 1.8% of total pax, and also days as low at 0.74%. The material difference can be seen using the average pax p/d for October.

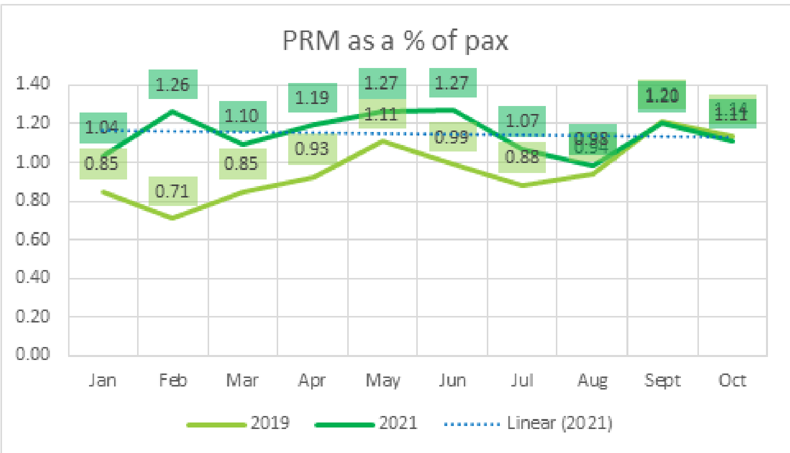
TABLE 10 PRM YTD AND 2019 COMPARATIVE

PRM			Variance
October '21 Average Pax P/D	1.80%	0.74%	
49,386	889	365	**524**
Material difference at [redacted].			
Total Pax	0.96%	1.15%	
[redacted]	[redacted]	[redacted]	[redacted]

Source: Dublin Airport November 2021

3.7.6 The above table also outlines PRM as a % of Pax Jan – Oct YTD: 1.15% and PRM as a % of pax Jan – Oct 2019: 0.96%. This is further supported by the following graph, which illustrates a comparison between PRM as a percentage of overall pax in 2019 vs 2021.

FIGURE 2 PRM PASSENGERS AS A % OF TOTAL PASSENGERS



Source: Dublin Airport November 2021

3.7.7 Whilst again not PRM specific, the challenge we face as a business with regards to restoring passenger confidence and eliminating uncertainty, is very much relevant to PRM passengers. PRM passengers are already arguably our most vulnerable cohort of passenger and as a result we can expect their behaviour to change as a result of social distancing, COVID requirements and overall, the greater amount of planning required when it comes to air travel. We have seen this particularly with arrivals to both assistance desks, with passengers arriving excessively early before opening of check-in requesting assistance. This has caused significant back logs for OCS and had an impact on assistance from desk performance.

3.7.8 Given the current issues that are prevailing in regard to the provision of the PRM service, we feel that it would be inappropriate and unjust for the Commission to reintroduce financial penalties in relation to any breaches in the PRM metrics during 2022. Instead, we propose to continue to monitor and provide updates on the service quality metrics designated for the PRM service.

Passenger Security Screening

3.7.9 In passenger security screening at Dublin Airport. the focus is and must be on ensuring that no prohibitive items make it onboard an aircraft and ensuring that we comply fully with all ICAO, ECAC regulations and all subsequent amendments as well as the associated Irish legislation. Security must always be the primary driver.

3.7.10 Whilst we understand the importance of maintaining service quality at the airport and how we do not want any passengers delayed coming through the screening process our focus cannot prioritise this over passenger security and safety.

3.7.11 The re-introduction of fines for a breach of the SQM for the security queue time will increase the risk of the focus leaning too heavily on queue times potentially resulting in non-compliances with the regulation which could result in at best even more onerous measures being introduced which would further impact the passenger experience (experience from Article 15 in 2012) or at worst something far more catastrophic.

3.7.12 It should be noted that we are seeing a different profile of passenger returning to the business than we would have seen previously, passengers are less prepared for screening and more anxious about travelling or being in any crowded environment. This is causing delays to the screening process as it requires increased checks on luggage and persons. The process as to how we conducted these checks is also further impacted by COVID-19 given the requirements to ensure social distancing & other mitigation measures that have been introduced to protect passenger and staff at Dublin Airport.

3.7.13 In recent months, we have seen an increase in prohibited items being detected at the airport some of which are extremely dangerous (meat cleavers, flickknives, live rounds of ammunition & incapacitating sprays) as well as significantly more liquids – all of these require a full bag search and possible escalation to airport police.

3.7.14 In terms of resourcing Dublin Airport is now recruiting and has been since September, staff to work in its passenger security screening area, however it is a very competitive labour market at the moment and this is presenting its own set of challenges for recruitment. These problems will likely be compounded when from the 1st of January 2022 enhanced background checks will be required for all staff to hold an AIC. It is anticipated that this will cause even more significant delays to the already long vetting process for recruitment as well as an increase the numbers of people who do not make it through this process successfully.

3.7.15 Given the current issues that are prevailing in the provision of passenger security screening, we feel that it would be inappropriate and unjust for the Commission to reintroduce financial penalties in relation to any breaches in the passenger security queue metric during 2022. Instead, we propose to continue to monitor and report on the passenger security queue times on a monthly basis as prescribed.

4. Future Interim Review of the 2019 Determination

4.1 Scope of 2022 Interim Review

4.1.1 Dublin Airport is grateful of the fact that the Commission has acknowledged that the impact of the COVID-19 pandemic on Dublin Airport and the aviation industry means that the pre-existing business plans and investment programme contained in the 2019 Determination are no longer valid in the current circumstances. We support the Commission's decision that a full building blocks review of airport charges is required and should commence immediately for completion in 2022.

4.1.2 Dublin Airport has called for a full Interim Review of the current 2019 Final Determination, as we believe a reappraisal of the regulatory building blocks in the wake of the COVID-19 pandemic is now necessary.

Table 11 Impact of COVID-19 on Regulatory Building Blocks

Building Block	Impact
Passenger Traffic	Passenger traffic has been catastrophically impacted by COVID-19, the original traffic assumptions used in the 2019 Determination for the period 2022-2024 are now defunct and no longer relevant.
Operating Costs	Given the drastic change in the airport's business environment, it is clear that the regulatory assumptions relating to operating cost allowances contained in the 2019 Determination are no longer valid. Dublin Airport was forced to introduce a voluntary severance scheme to right-size the airport's staff numbers. This has resulted in a considerable additional element of cost for the company.
Commercial Revenues	Dublin Airport's non-aeronautical businesses have been decimated by the impact of COVID-19, therefore the original assumptions made in the 2019 Determination are no longer valid and need to be reassessed.
Cost of Capital	Regulated rate of return needs to be reviewed given the impact of the COVID pandemic on the risk profile of the airport.
Cost of Equity	Uncertain outlook and volatility of the current operating climate amidst COVID-19 have been reflected in sharp increases in the observed asset betas

Building Block	Impact
	for publicly traded airport operators (e.g. Aéroports de Paris, Aena, Fraport, Vienna and Zurich) and how this would point to an increase in the cost of equity, all else being equal.
Cost of Debt	Currently the cost of debt allowance for Dublin Airport is based on the cost of embedded and new debt approach but no allowance was made for transaction costs relating to embedded debt, therefore the current cost of debt range should be adjusted to include this further allowance.
Capital Expenditure	Dublin Airport remains committed to our medium-term goal of developing the airport capacity and infrastructure to deal with 40 million passengers per annum as set out in our Capital Investment Programme (CIP2020+) but the timeframe needs to be revised following the COVID-19 pandemic.
Service Quality	COVID -19 pandemic has had a drastic impact on service quality monitoring at Dublin Airport. Service quality metrics need to be examined post pandemic, and rebates/bonuses need to be introduced, thus incentivising financial-performance and enhanced customer outcomes.

Source: Dublin Airport November 2021

4.1.3 Dublin Airport is currently in the process of managing the impact of COVID-19 as efficiently and effective as possible in order to maintain airport operations and financial viability while ensuring the continued safety of staff and passengers. However, the full impact of COVID-19 on our business has been substantial and it is important that our regulatory determination is now adjusted to reflect this.

4.1.4 Going forward, we will look to reassess our business forecasts with a view to providing the Commission with an updated regulatory proposition for the period 2023-2026 as proposed in preparation for a full regulatory review in 2022.

4.2 Airport Charges 2023-2026

4.2.1 It is essential that airport charges at Dublin Airport for 2022 and beyond are reassessed to correct for inaccurate underlying regulatory assumptions and to better reflect the reality of the aviation market today.

4.2.2 Dublin is one of the cheapest airports in Europe having one of the lowest average airport charges of comparable airports. However currently the price cap at Dublin Airport is undervalued and as a result our airport charges are insufficient to cover our average costs.

4.2.3 The price cap needs to increase by a minimum of €2.00 in order to ensure adequate charging levels at the airport going forward.

4.2.4 Appropriate levels of airport charges are critical to the future success of Dublin Airport and are necessary to meet the required investment in sustainability, growth, passenger experience and new technology.

4.2.5 We believe that the future success of Dublin Airport is also critical for the growth of the Irish economy, given that Dublin Airport is a vital element of national infrastructure, with a pivotal role as a key facilitator of economic development at a national and local level.

4.3 The Commission's Regulatory Model

4.3.1 While the current regulatory model is consistent and predictable, we believe that this may now be an opportune time to look at how the current regulatory determination process can be improved, to provide sufficient flexibility in the regulatory model to respond to the various positive and negative factors that impact growth trends and operations at Dublin Airport.

4.3.2 In practice this should ensure that the regulatory determination process becomes less prescriptive, more pragmatic, focussed more on principles and outcomes, adopting new approaches to accommodate innovation and ensure adequate incentive-based regulation.

4.3.3 In a white paper submitted to the Commission on the 5 March 2021, Dublin Airport provided details of our views on potential changes to the current regulatory model however some of the key proposals are summarised below.

Volume Risk Mechanism

4.3.4 In the current regulatory model, Dublin Airport bears all the risk relating to the passenger volumes outturns differing from the traffic forecasts used by the Commission in its price determination.

4.3.5 Volume risk is a key factor in the current incentive based regulatory model. Volume forecasts are at the core of the regulatory model, through their relationship between operating costs, capital expenditure, commercial revenues and the price cap calculation. Over the course of a determination period, Dublin Airport can be impacted positively or negatively by volume risk which results in volume outcomes diverging from the traffic forecast levels.

4.3.6 Given the current exceptional high level of volume risk, Dublin Airport would request that the Commission would consider looking at the introduction into the regulatory formula of a volume risk mechanism as part of the 2022 Interim Review in order to mitigate certain aspects of this high-level risk.

4.3.7 Dublin Airport would recommend that the Commission considers the potential use of a volume risk adjustment mechanism where a dead band can be set allowing certain parameters of volume fluctuation to still be permitted (10%+/-) in order to preserve the incentivisation properties of the regulatory model. However, an adjustment mechanism could then be added to the price cap formula which would allow for changes to the annual price cap where volume fluctuations exceeded the dead band in either direction.

4.3.8 We note that Heathrow Airport made a similar request to their regulator the CAA for a risk sharing mechanism and the CAA has just confirmed its intention to introduce new arrangements for traffic risk sharing as part of its next regulatory decision for Heathrow Airport which is due to take effect in 2022[13].

RAB Profile Adjustment

4.3.9 As a result of the outbreak of COVID-19 Dublin Airport is expected to continue to substantially underperform against the price caps in 2021 and 2022 with significant losses in financial earnings across the aeronautical and commercial sectors of the business.

4.3.10 Dublin Airport will likely fail to generate the allowed regulated rate of return of 4.2% on our regulated assets in 2021 and 2022 and where the outlook going forward is currently negative.

4.3.11 Dublin Airport forecasts a cumulative EBITDA shortfall of some [redacted] over 2020 and 2021 compared to what was allowed in the 2019 Determination. We fully support the concept of incentive regulation and appreciate that the regulated entity is currently assigned full risk under the regulatory framework. In the last control period, Dublin

[13] Civil Aviation Authority, Economic regulation of Heathrow Airport Limited: H7 Initial Proposals, October 2021

Airport significantly outperformed the regulatory targets and retained the benefits of the outperformance for the duration of that control period. However, the current quantum of underperformance is exceptional and concerning in relation to the ongoing financial viability of the airport operations. The current deviation is significantly outside the parameters of normal regulatory risk assignment.

4.3.12 We request that the Commission would evaluate allowing future charges to include the recovery of the exceptional portion of the 2020-2022 EBITDA shortfall. Utility regulation normally treats these exceptional deviations similar to the introduction of a new asset to the capital base and allows the recovery over a typical asset life (15 years for example). This type of mechanism avoids any immediate impact to price caps/airport charges and smooths the recovery over a longer period, thus flattening any charging spikes in a particular year particularly given that the additional cash flow will be needed to fund and enhance our airport into the future.

4.3.13 In addition, it should be noted that the UK airport regulator, the CAA has just confirmed that it will allow for a regulatory intervention, in the form of a RAB adjustment of £300 million, which will come into effect from 2022 and which will compensate the airport for loses in revenues and failure to recover depreciation costs over the period 2020-2021 due to COVID-19. [14]

4.3.14 Dublin Airport believes that a RAB adjustment mechanism is a necessary component which should be added to the Commission's current regulatory model. There is accepted precedent for the inclusion of such a measure.

4.3.15 This could potentially enable a smoothing of the price cap in the short to medium term while also allowing Dublin Airport full remuneration on its assets over the longer term including the recovery of financial losses arising from the impact of COVID-19.

The Regulatory Till

4.3.16 In the 2019 Determination the Commission decided to continue with a single-till approach in regulating airport charges at Dublin Airport.[15] The Commission stated that commercial revenues should be taken into account when setting a cap on aeronautical charges given the demand complementarities between aeronautical and commercial activities.[16]

[14] CAA, Economic regulation of Heathrow Airport Limited: response to its request for a covid-19 related RAB adjustment, April 2021.

[15] CAR (2010), 'Determination on the Maximum Level of Airport Charges at Dublin Airport 2020-2024 Commission Paper 8/2019, October, p.44 paragraph 4.17

[16] CAR (2014), 'Maximum Level of Airport Charges at Dublin Airport 2014 Determination Commission Paper 2/2014' 7 October, p36 paragraph 3.16

4.3.17 However recently a number of European airports have moved from single to dual till regimes over the last few price reviews, including Spanish airport operated by Aena and Brussels Airport. For example, Brussels Airport shifted from a single to a dual till regime over multiple control periods based on a comparison of Brussels Airport's tariffs to tariffs at a set of comparator airports. If Brussels Airport's tariffs were more expensive than the average of the four comparators with the highest tariffs, then the shift to a dual till was slowed. In contrast, if the airport's tariffs were lower than the average of the four comparator airports with the cheapest tariffs, then the extent to which commercial revenues were netted off aeronautical revenues was reduced. Dual till regimes are also used at Italian airports and airports in Australia and New Zealand.

4.3.18 A number of airports have also moved from single till to hybrid till regimes. A hybrid till regime considers which activities / revenues should be included in the till, and/or the extent to which commercial profits should be shared between the airport and users.

4.3.19 There are therefore significant benefits of moving away from a single-till regime, while still maintaining some cross-subsidisation between commercial and aeronautical activities. Practically in moving to a hybrid till, there are two factors that are important to consider: ensuring it does not increase the administrative burden and timing.

4.3.20 For this reason, we consider that it may be more appropriate to move to a hybrid till based on a revenue-sharing arrangement where a certain proportion of commercial revenue is netted off from charges each year. The proportion of commercial revenue retained in the till could be defined in advance or it could vary depending on, for example, a comparison of Dublin Airport's charges with those of comparator airports. In addition, rather than shifting to a certain revenue-sharing percentage all at once, the Commission could consider progressively reducing the cross-subsidisation over time.

4.3.21 We believe that this may now be an opportune time to introduce this revenue -sharing arrangement given that it is apparent that the impact of COVID-19 means that there will be a significantly increased risk across a number of the commerical activities that the airport is involved in, which is totally separate to volume risk, therefore airports need more freedom for making invesment decisions in this enhanced risk environment.

Service Quality Metrics Application

4.3.22 Any detailed review of the Service Quality Metrics should move from the concept of penal application, if prescribed targets are not met, to Service Quality Rebates and

Bonuses, thus incentivising financial-performance and enhanced customer outcomes. This would be aligned with Ofwats application of the Outcome Delivery Incentive (ODI) framework and is similar to what Heathrow has proposed its Service Quality Rebates and Bonuses (SQRB) framework should move to under the H7 review.

Time Period Covered in Review

4.3.23 In regard to the regulatory determination period, Dublin Airport would support the Commission's proposal to extend the current regulatory period out to 2026 as part of the 2022 Interim Review. This would be in the interest of enhancing long term planning and efficiency.

4.4 Dublin Airport Next Steps

4.4.1 This response has sought to outline in clear, coherent content how the price cap for 2022 remains significantly understated and fails to recognise the reality of the ongoing commercial and liquidity challenges facing the regulated entity. We strongly believe that in order to discharge the various statutory obligations of both daa and the Commission, the price cap for 2022 must be reset to c.€10.50 to allow daa operate Dublin Airport in a financially viable manner.

4.4.2 We look forward to working with the Commission in relation to completing the current 2021 review and in going forward preparing for the 2022 Interim Review.