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20 November 2015

Mr David Hodnett
Acting Commissioner
Commission for Aviation Regulation
3rd Floor, Alexandra House
Earlsfort Terrace
Dublin 2
Email: info@aviationreg.ie

By email only

Re: DAA monopoly application for review of 2014 Determination

Dear Mr Hodnett,

I refer to the daa monopoly's letter of 6 November, requesting a re-opening of the 2014 Determination in order to remove the 5% ceiling on under-recovery that can be clawed back by the daa from airport users.

One of the fundamental flaws of the regulatory regime governing airport charges at Dublin Airport is that traffic growth / new route incentives offered by the daa are deducted from aeronautical revenues, which may result in a self-inflicted under-recovery on a per passenger level. The principle of automatic entitlement to claw back such under-recovery exacerbates this regulatory design flaw. Airports operating in competitive markets do not benefit from any such entitlement, and instead stimulate traffic growth through incentives, with the view to benefiting from the economies of scale and non-aeronautical revenues derived from additional traffic. While the daa monopoly is similarly able to benefit from the economies of scale and non-aeronautical revenues resulting from traffic growth, the flawed regulatory regime also permits it to claw back from airport users the aeronautical revenue invested in stimulating traffic, up to 5% of permitted revenue in any given year. This is yet another example of how the economic regulation of Dublin Airport fails to replicate the effects of competition.

Permitting the daa monopoly to claw back an even higher percentage of under-recovered aeronautical revenue would further increase the daa's ability to game the airport charges system to its sole benefit. From the consumer's point of view, airport users would be faced with a steep increase in airport charges following a period of traffic growth at Dublin, while the daa would benefit from: a) the economies of scale; b) non-aeronautical revenues; and c) increased charges resulting from additional traffic. This would amount to an abuse by the daa of its monopoly position – a situation that would not arise in a competitive airport market where benefits of traffic growth are shared equally between the airport, airlines and consumers.

In respect of the CAR's duty to consider whether there are substantial grounds for a review of the 2014 Determination, we note with concern that neither the daa's application for review, nor your paper CP1/2015 provide any information that would enable airport users to take a view on the existence or lack of such substantial grounds based on your own test set out in point 2.8.

In order to enable airport users to respond to the consultation, please urgently require the daa to provide the following information:

1. Revenues received to date in 2015 from each of the following:
   a) Landing charges,
   b) Passenger charges,
   c) Parking charges,
   d) Other miscellaneous charges.

2. Revenues projected for Jan-Dec 2015, split into 4 categories as per point 1 above.

3. Passenger volumes to date in 2015.

4. Passenger volumes projected for Jan-Dec 2015.

5. Average load factor recorded in 2015 to date.

6. Number of runway movements to date in 2015.

7. Number of projected runway movements for Jan-Dec 2015.

8. Cost to the daa of any incentive schemes and discounts granted to airport users in 2015, split by type of incentive / discount.

9. All of the above as currently projected by the daa for 2016.

We look forward to the receipt of the above information, as a minimum required to enable users to assess whether the circumstances are *"exceptional"*, *"outside the control of the regulated company"* and whether *"the effects of those circumstances [are] liable to be significant enough to compromise the objectives of the original decision"*.

Yours sincerely,

Juliusz Komorek
Chief Legal & Regulatory Officer