

Dr. Adrian Corcoran
Director of Economics
Commission for Aviation Regulation
Earlsfort Terrace
Dublin 2.

5th May 2021

Dear Adrian,

This document provides Aer Lingus' feedback on the Commission for Aviation Regulation's Consultation Paper CP1/2021 regarding a potential second Interim Review of the 2019 Determination for Dublin Airport. In this document we respond to Questions 1-4 as set out in CP1/2021, with further response on Question 5, arising from the daa's "White Paper" published simultaneously with CP1/2021, to be submitted on 5th July 2021.

Firstly, Aer Lingus agrees that there are substantial grounds for a second interim review of the 2019 Determination to be conducted.

Aer Lingus believe that the current uncertainties created by the crisis warrant a narrow focus review setting a price cap for both the years 2022 and 2023.

In addition, Aer Lingus believe it would be appropriate to reduce the current Determination Period by one year and for it to conclude therefore at the end of 2023. A full regulatory determination process, including review of all the building blocks to the price cap, could then be conducted in 2023 to inform a new regulatory period commencing 1 January 2024.

Given the current levels of uncertainty faced by the industry, Aer Lingus believes that this approach would provide the most appropriate framework to allow all parties – both airlines and airport – to plan the recovery phase with a pricing outcome that affords some level of certainty on costs, revenues that will underpin a given level of operations, and investment requirements.

Substantial Grounds

1. Does the current situation resulting from COVID-19 represent substantial grounds to conduct a 2021 Interim Review of the varied 2019 Determination?

In responding to CP3/2020 (Consultation on First Interim Review of the 2019 Determination) Aer Lingus agreed that there were substantial grounds to conduct an interim review in recognition of the severe impact of the Covid-19 pandemic on traffic volumes, affecting all stakeholders within the aviation sector. Traffic levels at Dublin Airport continue to diverge radically from those forecast in the 2019 Determination and there is on-going uncertainty as to when traffic restrictions will be eased/lifted; we therefore consider that the position remains similar to that which gave rise to the First Interim Review and hence substantial grounds exist for a second interim review.

Time Period of 2nd Interim Review

What time-period should an interim review of the varied 2019 Determination cover? (just 2022, or beyond this)

Aer Lingus believes that a “true” picture of under-lying demand for flying will not emerge before 2023. It is unclear whether there will be a somewhat linear return to pre-Covid levels of traffic over time or instead whether the lifting of travel restrictions could result in a sharp spike in demand for travel in late 2021/early 2022 (a “catch-up” travel effect) to be followed by a tapering off of demand thereafter. Reasonable arguments can be made for either scenario. As we don’t expect to have a clear view of a post-Covid “normal” traffic level until 2023 our preference is to deal with uncertainty over the entire period of 2022 & 2023 by reviewing the price cap for both years at this time. By providing earlier certainty on a 2023 price cap than would be the case if a separate further narrow-focus review of the 2023 price cap was to be undertaken at a later date, the CAR would assist airlines and the airport in planning operations over the medium term. We believe this to be the most pragmatic approach, particularly given the demands placed on all parties in terms of revisions to business plans and resources to respond to regulatory consultations in the current circumstances.

Narrow Focus Interim Review

Is a limited interim review, [as outlined in Section 6 of CP1/2021], most appropriate at this time? a. If so, what are the key elements we should consider in this review? b. If we

conduct a narrow review and an appeal panel is established, should we wait until the potential appeal process is concluded to publish the draft and final decisions?

Aer Lingus considers that only a narrow focus review is currently appropriate. Traffic volumes remain too uncertain (even if multiple traffic scenarios were to be developed) to conduct a full review at this time – this is before additional items which would impact on future volumes at Dublin Airport which are due to be resolved over the short-term such as the operating limits on the North Runway, are considered. Uncertainty exists not only in relation to traffic volumes but also other important building blocks – e.g., it is not yet known for what time period the protocols for international travel in light of Covid-19 will remain in force which could potentially impact on the operating costs at Dublin Airport.

Aer Lingus considers that the items reviewed by the CAR in the first interim review were the appropriate items to be reviewed and, even if we do not necessarily agree with the decisions taken by the CAR on all of these items nor their reasoning in arriving at those decisions, would support a similar set of items being reviewed by the CAR in any a second narrow-focus review.

The timeline for the Appeal Panel to the First Interim Review has been communicated since the publication of CP1/2021, with the appeal panel to complete its work by 28th July 2021. It would therefore seem feasible for the CAR to await the outcome of that appeal panel, incorporating their findings as appropriate, before publishing their draft decision on any second interim review. While timelines may be somewhat shorter than standard for consultation periods on any Draft Decision on 2nd Interim Review and pricing proposals for the next year from daa, it should still be possible to meet the regulatory requirements on consultation from a start position of Appeal Panel findings in late July.

Wider-Ranging Interim Review

- 1. Is a more wide-ranging review required at this time, [as discussed in Section 7 of CP1/2021]? If so: a. How should we deal with uncertainty if we conduct a full review?
b. What are the key areas that should be considered in such a review?*

For the reasons set out above, Aer Lingus does not consider it appropriate to conduct a full building blocks review at this time. The earliest we consider sufficient certainty will exist for such a meaningful broad-based review to be conducted is in 2023.

At that point, the outcome of a full building blocks review (essentially a full regulatory determination review) would impact on 2024 price cap only and the process would then have to be repeated in 2024 to set the price cap for the next regulatory period. It would therefore seem reasonable that the CAR considers shortening the current regulatory period by one year (to end in 2023), so that a full review undertaken in 2023 would have effect for a full regulatory period starting in 2024. This change in the regulatory periods would provide a more stable framework for planning over the longer term.

While the CAR proposed a possible “scenarios based” approach to dealing with uncertainty if conducting a wide-ranging second interim review, Aer Lingus considers it would be a difficult task to build consensus on scenarios to be modelled. Even if consensus on scenarios was reached, any such process would likely be complex, resource-heavy and with a risk of unintended consequences if there is cross over between the different scenarios e.g. outcome on Variable A matches Scenario 1 but outcome on Variable B matches Scenario 2. Our preference therefore is that the CAR do not conduct a wide-ranging review at this time, even if uncertainty were to be addressed through a scenarios-based approach to such review.

Aer Lingus appreciates this opportunity to provide our feedback on the CAR’s consultation paper, CP1/2021. If you would like to discuss any of the views expressed in this response document in further detail, we would be pleased to arrange a meeting with you for that purpose.

Yours sincerely,



Reid Moody
Chief Strategy and Planning Officer