

Application to CAR for ATI Fee Approval of a CUPPS Usage Charge – Dublin Airport

1. Application for ATI fee approval

In compliance with Section 14(3) of S.I. 505 of 1998¹ daa wishes to apply to the CAR for approval of an ATI fee for CUPPS usage at Dublin Airport. This document should be considered as constituting formal application for approval of an ATI fee for CUPPS usage of 8c per departing passenger. This application follows completion of a consultation with users on the CUPPS usage charge at Dublin Airport which is discussed in Section 3 of this document.

2. Requirements for the Setting of Charges for ATI fees as per EU Directive 96/67/EC

The following criteria are set out in the 1996 EU Ground-handling Directive for the setting of fees 'where access to airport installations gives rise to the collection of a fee'; relevance, objectivity, transparency and non-discrimination.

- **Relevance** – the fees are logically connected to what is being provided in consideration of the fee. In this case, the fee is being charged for CUPPS equipment (including maintenance and support over the 5 year contract period) to which access is being granted. The fee does not include any extraneous items or costs which are not reasonably and directly related to CUPPS infrastructure.
- **Objectivity** - the fee is set in a fair and balanced manner undistorted by any prejudice on the part of daa. The current fee level, proposed for the CAR's approval, is consistent with daa's statutory responsibilities to meet its financial obligations, conduct its affairs in a cost-effective manner and make a reasonable profit.
- **Transparency** – the criteria on which the fee is based has been made available and explained to users. The precepts underpinning the charging policy have been set out clearly, the proposed fee has been notified to users and the final fee will be published (subject to the approval of the CAR) in the Dublin Airport Miscellaneous Charges Booklet for 2016.
- **Non-discrimination** - identical or comparable situations must not be treated differently. In this regard, all airlines will be charged the same per departing passenger charge for use of the CUPPS infrastructure.

We contend that the CUPPS usage fee proposed by daa in this application meets all of the criteria set out in 96/67/EC.

¹ Implementing the European Council Directive 97/67/EC

3. CUPPS Charge Consultation

On 13 November 2015, daa issued a consultation paper (attached as Appendix 1) to airport users on the proposal to submit an application to CAR for ATI fee approval of a CUPPS usage fee at Dublin Airport. Details contained in the consultation paper included:

1. The reason for consultation regarding the proposed ATI fee for CUPPS at Dublin Airport
2. Clarification on how the setting of the CUPPS ATI fee meets the criteria of relevance, objectivity, transparency and non-discrimination
3. A breakdown of costs associated with the provision of CUPPS equipment, maintenance and support at Dublin Airport under the new contract for CUPPS provision in place with ARINC which underpins the fee proposed.
4. Proposed fee for CUPPS usage at Dublin Airport and treatment of such fee to end 2019.

A consultation meeting was held on 27 November 2015 which was attended by 1 airport user. The consultation presentation is attached as Appendix 2 and the minutes of the consultation meeting as Appendix 3.

daa allowed until 16 December 2015 for airport users to submit written comments in relation to the consultation following a request for extension to the original 15 December 2015 deadline. (Ryanair submitted a written request to extend the deadline for written comments from users in line with the Miscellaneous Charges deadline; daa granted the request).

User response to consultation

Aer Lingus submitted a response to the consultation which is summarised below and provided in full as Appendix 4. (Ryanair submitted a response to the Miscellaneous Charges consultation only – for completeness, this is also detailed below as it relates to the CUPPS charge and provided in full as Appendix 5).

1. Request to consider a charging structure that reflects differing passenger classifications

Aer Lingus requested that daa consider a charging structure that would reflect the different passenger classifications such as web-check, or transfer guest being charged differently to full check-in passenger. A lengthy consultation process with airport users to confirm the technical requirements for CUPPS had been undertaken with users prior to awarding the contract for provision of this service; the ability to reflect differing passenger classifications was not requested during that consultation. The ability to implement a charging structure that reflects differing passenger classifications is therefore not currently available but it is something that we can add to the technical requirements for the future.

2. Request to consider a charging solution that has regard to higher volume airlines or airline groups

Aer Lingus requested that daa consider a charging solution that has regard to higher volume airlines or airline groups. In this regard, the proposed fee for CUPPS usage will be applied to all users on a consistent per-user basis i.e. the fees charged to each airport user will be linearly related to the number of departing passengers they process through the CUPPS infrastructure and only users of CUPPS will be required to pay this charge.

A charging solution that has regard to higher volume airlines or airline groups is not currently provided as an automated data item within the CUPPS infrastructure and would require a manual

billing process. daa are not proposing to charge for CUPPS usage during the current determination period.

3. Total departing passenger numbers

Aer Lingus suggested that the total departing passengers should not be fixed and should be aligned with the projected passenger numbers determinable by the annual submission by the airlines as part of the annual airport charges consultation. In daa's final response to consultation document it is stated that in previous annual airport charges consultations (including the current 2016 airport charges consultation) an incomplete set of airline forecasts were received. As the dataset for airlines' forecasts of passenger numbers has been consistently incomplete we do not consider it to provide a suitable factor in the calculation of the CUPPS charge.

4. Annual adjustment of the charge for CUPPS usage

Aer Lingus suggested that the charge for CUPPS usage should be adjusted on an annual basis to be coherent with variable factors. In CP1/2008, CAR confirms that ATI fees "should have regard to the prevailing inflation rate" but there is currently no process for adjusting charges on an annual basis other than a similar full consultation process as just now concluded.

Ryanair's response to the Miscellaneous Charges 2016 consultation included two items relating to CUPPS:

1. A request to provide the cost of CUPPS. The full capex and operating costs were provided in both the consultation paper and the consultation presentation.
2. A statement that as an opex allowance was made for the provision of CUPPS service [in the current regulatory period] any future charges for CUPPS must result in a reduction to permitted opex.

Our expectation is that, should approval of a CUPPS fee for Dublin Airport be granted, that an appropriate adjustment will be made to the opex allowance for subsequent regulatory periods.

On 22 December 2015 daa issued a final response to the consultation indicating that we intended to apply to CAR for approval of an ATI fee for CUPPS of 8c per departing passenger.

4. Fee Proposal for the Provision of CUPPS at Dublin Airport

daa proposes a charge of 8c per departing passenger for approval. This proposed fee is based on the costs of CUPPS provision under the new ARINC contract. The full cost breakdown under the new contract was supplied in the consultation paper issued on 13 November 2015. This fee level covers the capital costs (depreciation over a 5 year asset life and return on capital of 5.8%²) and operating costs of the provision of CUPPS equipment.

daa is proposing this fee as the basis for the approval application for the following reasons:

- 1) In the most recent decision relating to ATI fees– CP1/2008 CAR cited the following items to be of relevance and we believe they are also relevant in this case:
 - a. The relevant costs in accessing an airport installation fee were those costs without which the installation would not exist, namely capital costs, utility costs and certain operating costs without which the installation could not operate.

² 5.8% is the allowed rate of return for Dublin Airport in total set in the 2014 Determination.

- b. Depreciation based on the capital stock was relevant to the provision of access to the installation
- c. The logic of recovery of a return on capital was accepted
- d. Operating costs which are relevant to providing the installation the subject of the access fees are relevant when setting access fees
- e. Dublin Airport Authority is entitled to recover from ground-handlers seeking access to an airport installation access fees based on the costs incurred by it in providing the installation to ground-handlers.

and we therefore consider the current fee consistent with the stated CAR position on appropriate levels of ATI fees.

- 2) Users did not express disagreement with full cost recovery through the CUPPS charge proposed.

We request that you approve this ATI fee application for the CUPPS charge of 8c per departing passenger at Dublin Airport and look forward to your decision in relation to this ATI fee.

5. Treatment of the CUPPS Rental Income for the Current Determination Period

As the costs of CUPPS provision (based on the existing opex-only contract in place in 2013, which was the base year for the 2015-2019 opex forecast) are provided for within the price cap to the end of 2019, any approved ATI fee charged and collected for CUPPS in the current regulatory period would not be approved. Therefore, we propose to calculate the ATI fee for CUPPS as an information item only on invoicing to users to 31 December 2019. We consider that this will provide useful information as to likely costs in subsequent regulatory periods. However, daa will not seek to collect any revenues through this ATI fee (if approved) until the end of the current regulatory period; daa would seek to collect ATI fees for CUPPS from 1 January 2020.