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20th November 2009

Mr John Spicer
Head of Economic Affairs
Commission for Aviation Regulation
3rd Floor
Alexandra House
Earlsfort Terrace
Dublin 2

Dear John

I refer to the Booz & Co T2 Opex assessment published on Monday 9th November.

This report confirms that the CAR *"needs to make a determination during December 2009, with sufficient time during November for stakeholders to review the **new** Draft Determination"* (our emphasis). Can you please advise:

1. The timetable for publication of a new Draft Determination, consultation with users and publication of your Final Determination.

2. When the CAR will carry out a T1 capacity assessment (as required by the Appeals Panel) or otherwise endorse the independent York Aviation study which confirms that T1 has sufficient capacity to service forecast traffic beyond the end of the next regulatory period and T2 is therefore not required.

3. When the CAR intends to carry out a study of non-monopoly airport charges (which continue to fall across Europe, as provided in evidence by Ryanair).

4. How the gross inaccuracies in the Indecon Jacobs Opex study which were exposed by the Booz & Co report will be addressed e.g. 30% differential in staffing uplift factor (1.6 T1 vs. 1.2 T2).

5. When the CAR will publish the outcome of its enquiries into the unilateral closing of existing boarding facilities (TBG) by the DAA, which is opposed unanimously by airline users.

6. Whether the CAR accepts Booz & Co's definition of an "efficient operator" i.e. one which "*will utilise the resources at its disposal to maximise the value delivered to customers*" and "*motivated through competitive forces to drive down costs in every area across the business while meeting the needs of its customers*", and how current DAA performance measures against your consultant's definition, at a time when DAA are unilaterally abolishing existing low cost facilities against the unamimous wishes of users to force users into high cost, unwanted facilities.

I wrote to yourself and Reamonn Lydon on 30th September and 6th October respectively in respect of the Booz & Co study. You have not replied to either letter and have ignored our requests:

- You failed to provide a copy of the list of prospective interviewees provided to Booz & Co which excluded Ryanair, the largest operator at Dublin Airport but included DAA and Aer Lingus.

- You failed to advise Booz & Co that existing DAA Opex and the Indecon report fall within the scope of the Booz & Co study.

- You failed to confirm what other "off the record" directions you provided to Booz & Co outside of the written terms of reference, other than those revealed by Booz & Co under questioning at their meeting with the DACC meeting.

- You failed to carry out a study of falling non-monopoly airport charges around Europe.

The final Booz & Co report vindicates our concerns that this process, combined with the leaking of the report to the Irish Times before publication to users, your inaction on DAA's unilateral decision to close down existing facilities (TBG), the provision of a list of interviewees to Booz & Co which excluded Ryanair, and "off the record" instructions to Booz, has been set up to deliver a predetermined outcome which discriminates against Ryanair and other users.

Ryanair supports the detailed DACC analysis of the Booz & Co study which has been prepared without prejudice to the unanimous and reasonable requirement of users that T2 costs should not be levied as T1 has more than enough capacity to service even the most optimistic traffic forecasts beyond the end of the next regulatory period.

Our comments below are confined to highlighting key flaws regarding the commissioning and execution of the Booz & Co study.

- The terms of reference prejudice the outcome in that they presuppose that there can be efficient T2 Opex despite the fact the CAR's consultants confirmed that it is 56% larger than necessary, and that T1 is operating at less than 70% capacity.

- The CAR provided Booz & Co with verbal "off the record" additional terms of reference which were revealed only through questioning at the DACC meeting. The CAR has yet to confirm that these are the only "off the record" secret directions provided to your consultants.

- Booz & Co provide a reasonable definition of an "efficient operator" but then openly base their report on DAA assumptions (Page 10).

- Booz & Co fail to exclude Opex generated by the over-specification of T2 (heating, lighting, cleaning, lift maintenance etc) despite the fact that the CAR's own consultants determined that T2 was 56% too big.

- Booz & Co accept the original Draft Determination as a baseline while at the same time demonstrating this baseline to be overstated (e.g. Booz & Co gross up factor for T2 is 1.2 while Indecon/Jacobs gross up factor for T1 is 1.6, a 30% differential in just one element of an over-generous staffing formula).

- Booz & Co ignore the fact that T1 capacity is close to 30 million passengers while current traffic has declined to 20 million passengers, and continues to decline.

- Booz & Co fail to reference or reconcile DAA statutory and regulatory accounts or test the apportionment of operational costs.

- Booz & Co provide no costings whatsoever associated with a review of the "off the record" Options 2 and 3.

- Booz & Co benchmark DAA performance against BAA performance (assessed in their work for the UK Competition Commission) but fail to note that as a result of their investigation, the Competition Commission in the UK found BAA monopoly ownership to be against the public interest.

- Booz & Co fail to address the written evidence provided to them by Ryanair on 9th October, including:

  - **Our letter to the CAR of 22nd July 2009** which demonstrates inconsistencies and inadequacies in the Indecon/Jacobs report which accepts DAA data without question or corroboration, accepts union opposition as a valid reason for inefficiency and identifies even less DAA inefficiency than the €40m identified by Declan Collier (CEO DAA).

  - **Temporary Boarding Gate (TBG) correspondence**: Booz & Co failed to take the opportunity this case provided to test DAA Opex cost calculations and claims. Booz & Co failed also to take this opportunity to investigate how spurious DAA Opex savings could generate significant Opex increases for users.

  - **Industrial Relations News, 1st October 2009**: Booz & Co ignores this report in which DAA confirm that the have "100 too many managers". Even as DAA claim to have "100 too many managers" Booz & Co allow Opex costs for even more managers in their report.

  - **Security Log:** Booz & Co make no reference to the hard data provided by Ryanair, preferring instead to operate from incorrect, theoretical models.

  - **T1 Capacity Assessment**: Booz & Co ignore the "elephant in the room" which is that T1 is operating at c.66% of total capacity while T2 adds just another (unnecessary) 10% to total airport capacity. Simple logic confirms there is no possible way that opening T2 can reduce Opex costs.

<u>To summarise</u>:

- The Booz & Co report has been compromised by prejudicial TORs and further distorted by "off the record" verbal directions by the CAR.

- The Booz & Co report relies on uncorroborated DAA assumptions without reference to, or reconciliation of, statutory and regulatory accounts or the apportionment of costs.

- The new Draft Determination must address the fact that:

  - T1 capacity is sufficient to meet forecast traffic beyond the next regulatory period.

  - Current DAA Opex is wildly excessive, as confirmed by both Booz & Co and Declan Collier, CEO DAA.

  - Comparator non-monopoly airport charges are in decline.

- There is no justification for T2 Opex costs to be levied on users in the next regulatory period.

We look forward to receiving your revised timetable, T1 capacity assessment and a comparator airports charges survey as a matter of urgency.

Yours sincerely

David O'Brien
Director of Flight & Ground Operations