DUBLIN AIRPORT
CONSULTATION COMMITTEE

Representing the Needs of Dublin Airport Users

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10th September 2009

Mr Cathal Guiomard
Commissioner for Aviation Regulation
Commission for Aviation Regulation
Alexandra House
Earlsfort Terrace
Dublin 2

Dear Cathal,

I refer to your letter dated 5th August 2009 and the CAR's invitation to respond to submissions made in reference to Commission Paper 3/2009, the Draft Determination.

As previously confirmed to you, the DACC, whose Executive Committee includes Aer Lingus, Cityjet and Ryanair, develops and presents consensus airline views and does not preclude individual members expressing their own views. This is clearly evidenced in the submissions you have received to the draft determination To date there have been no withdrawals of membership to the DACC and this membership is responsible for almost all current and prospective passenger traffic at Dublin Airport. Perhaps the Commission might advise if it has identified any significant sources of current or future traffic outside of DACC membership. The Commission might also advise if, however unlikely, it has identified any significant contradictions between the submissions of the DACC and individual airline users.

We have attached a detailed commentary on the DAA submission. The DAA submission is noteworthy for the fact that it makes no reference to any of the consultation meetings chaired by the CAR and demonstrates no regard for the interests of users, expressed in writing and at those meetings.

We have learned that the CAR met with the DAA shortly after the DACC submission was published to the Regulator's website. If this is in actual fact the case, the facilitation of such a meeting is in marked contrast with your failure to facilitate, or even acknowledge user requests for consultation on operational expenditure.

It is noteworthy that our two largest members, Aer Lingus and Ryanair, competitors who deliver over 80% of the traffic, agree in their submissions that Dublin Airport is expensive and inefficient in terms of operating costs and has been very inefficient in terms of its capital investment and in particular the development of an over specified and over priced T2.

With respect to the various other submissions made in response to Commission Paper 3 of 2009, it is the view of the DACC that most of those submissions carry no weight for the following reasons:

- The third party contributors have not consulted with the airline users at Dublin Airport which deliver the very traffic on which their economic aspirations are based.

- The third party contributors, with the exception of the local residents associations, failed to attend any of the consultation meetings held by the CAR.

- One contributor (Bord Failte) confirms that they have no expertise, have carried out no research and provide no evidence.

- One contributor (ITOA) has copied its submission word for word from another contributor (ITIC) which is chaired by a serving DAA employee and which issued an erroneous submission without consulting its airline member, Aer Lingus.

To their credit, Forfas and the Dublin Chambers of Commerce have identified the crucial link between airport charges and passenger traffic, a fact evidenced by the continuing traffic growth of Aer Lingus, Ryanair and others outside Dublin, even as their traffic at Dublin falls dramatically. It is noteworthy also that the local residents association (the only third party to actually attend any of the consultation meetings) have identified that any foreseeable growth can be accommodated by the low cost redevelopment of runway 11/29.

The apparent subordination of the interests of users and the efficient development of Dublin Airport to DAA financial viability arguments, *which are strongly disputed by the DACC*, along with a complete absence of consultation on operating expenditure has drained user confidence in the office of the Regulator.

It is clear from recent results that Dublin Airport airline users are unable to absorb Dublin price and tax increases. The open ended increases you propose will drive even more traffic away from Dublin at no cost to DAA, given that they know they will be compensated by the CAR for any traffic shortfalls in the coming period by even higher increases in the subsequent period. For this reason, we call on the CAR to promote the following steps:

- Call an urgent meeting to discuss the timing of the commencement of Terminal 2 operations as:
  - T1 has sufficient capacity to accommodate all traffic for the foreseeable future.
  - T2 is oversized and overpriced (as confirmed by the CAR's own consultant).
  - Final T2 costs have not been identified.
  - No definitive price structure has been discussed or agreed with users.
  - T2 does not have interconnectivity with Pier B, Pier A or Pier C and users will not fund remedial works arising from DAA incompetence.

- The restoration of runway 11/29 at a DAA confirmed price of €5m. to be substituted for the €300m+ proposed new runway.

- The temporary forward lounge to be moved to the end of Pier D to provide cost efficient additional stand capacity when demand arises.

- A timetable for opex and service standard discussions to be established with a downward review on the price cap arising from these consultations.

- Provide the CEO of DAA an opportunity to explain his public comments on excess Terminal capacity and possible mothballing of terminal facilities to users.

The DACC request a meeting with you to discuss the points above and to impress upon you, again, the urgency attached to a cost reduction programme at Dublin Airport in order to reverse the current decline at Dublin Airport which threatens not just the viability of Dublin routes but also of operators servicing these routes.

Yours sincerely,

Geoffrey O'Byrne White
Chairman - DACC

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Attached – DACC submission.

DUBLIN AIRPORT
CONSULTATION COMMITTEE

Representing the Needs of Dublin Airport Users

RESPONSE TO SUBMISSIONS MADE IN RELATION TO CP3/2009 – Draft Determination on Maximum Levels of Airport Charges at Dublin Airport

Introduction

1. The Dublin Airport Consultation Committee (DACC) is the body which represents airlines providing over 90% of Dublin Airport's passenger demand and includes scheduled airlines, charter airlines, cargo operators and handlers.[1] As well as individual member airlines, the membership of DACC includes the International Air Transport Association, which represents much of the global scheduled airline community, other than the low fares airlines. As such, DACC represents both current and prospective users[2] of Dublin Airport and DACC refutes suggestions made by the CAR in correspondence that it does not represent the consensus views of the vast majority of the users of Dublin Airport.

2. DACC would also remind the CAR that the views of airlines, operating in a competitive regime such as the liberalised European air transport market, are an accurate reflection of the true interests of passengers[3]. DACC considers that the claims of some third parties, such as ITOA, ITIC, and Fingal Dublin Chamber, that the airlines are seeking to restrict capacity at Dublin Airport to limit competition are manifestly wrong as there is ample spare capacity at Dublin Airport, with capacity in T1 approximately 50% greater than is presently being used. DACC members are all seeking to expand the market at Dublin but the principal issue preventing this is the cost of operating, including the air travel tax, not the lack of capacity. Both Aer Lingus and Ryanair are currently reducing their operations at Dublin, freeing up even more spare capacity, whilst expanding their operations outside Ireland. Traffic at Dublin is in a decline and is unlikely to reach 2008 levels until the end of the next quinquennium. The responses from organisations charged with promoting trade, tourism and economic development all seek increased air service connections, particularly globally, to support economic recovery. This will best be achieved by ensuring the costs of operating to Dublin Airport are as low as possible not by premature and costly investment as many of these bodies mistakenly argue.

3. This response deals in the main with the submission by DAA. Where relevant, we comment on the views of other parties in their submissions in response to the Draft Determination.

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[1] Views communicated by the DACC represent a general consensus and do not necessarily reflect all the precise positions of individual members on all specific details.
[2] It should be noted that the new EU Airport Charges Directive gives a legal definition to the term *"airport user"* as *"means any natural or legal person responsible for the carriage of passengers, mail and/or freight by air to or from the airport concerned"*. In other words, users are defined legally to be airlines.
[3] See paragraphs 7 and 38 of the DACC Submission in Response to CP3/2009

4. This response supplements DACC's earlier response to the Draft Determination. DACC remains of the view that, taking all factors into account, there is no justification for the CAR setting a price cap greater than €5 at any point in the forthcoming regulatory period and the cap could be materially lower if, as DACC believes, there is no case for charging users for the costs associated with T2 until demand at Dublin Airport reaches the level at which the additional capacity provided by T2 is required and can be efficiently utilised.

The CAR's Statutory Objectives

5. The thrust of DAA's response is focussed primarily on the CAR's duty to ensure the financial viability of DAA, without regard in the main to the key objective to facilitate efficient and economic operations of Dublin Airport. DAA seeks to have the CAR guarantee its returns in full on the cost of DAA's historic inefficient and uneconomic development, stating that[4] "*the Commission is required to amend its draft determination as it does not have discretion as regards the ability of DAA to operate Dublin Airport in a sustainable and financially viable manner."* This is not the CAR's only statutory duty, as DAA appears to imply and the CAR is required to balance all of its objectives.

6. DACC would remind the CAR that it has three statutory objectives in making a Determination as to the level of airport charges at Dublin Airport.

- *"the efficient and economic development of Dublin Airport;*
- *the ability of the Dublin Airport Authority to operate in a financially viable manner;*
- *the protection of the interests of users and potential users of the airport."* [5]

7. As DACC made clear in its previous submission, the CAR is not bound to act to protect the financial viability of DAA without being satisfied that the operation and development of Dublin Airport has been carried out in an efficient and economic manner and that the interests of current and future users are and have been protected. The financial viability objective cannot be taken as the overriding priority without reference to the other two statutory objectives.

8. In practice, DAA is seeking to be indemnified against all risks attaching to its past failure to improve operational efficiency and those attaching to its development of over-sized expensive facilities. DACC considers that DAA is simply not taking corporate responsibility for its actions. DAA's submission highlights the contradiction between treating DAA as a commercial regulated entity, whereby shareholders accept a balance of risk and reward based on the decisions which they take, and which is implicit in adopting a cost of capital which reflects commercial risks and rewards in the airport sector, and the apparent expectation by DAA that its shareholders will get a guaranteed return whatever the risks or whatever un-commercial decisions it takes, such as the over-sizing of T2.

[4] Page 20 of Part 1 of DAA response.
[5] CAR website.

9. There is surely no clearer indication that regulation has to date failed to replicate the working of a competitive market in the case of Dublin Airport. DAA's attitude is typical of a monopoly and is a clear indication of the scope for abuse to which a strict application of the building blocks approach to regulation can give rise in the absence of adequate regulatory safeguards enforcing efficient and economic development and operation of the airport.

10. DACC refutes DAA's suggestion at page 4 of its submission that the previous Determination (CP6/2007) in some way committed the CAR to a higher cap in the forthcoming regulatory period. The only regulatory commitment given by the CAR in the previous Determination was in respect of the unitisation of the costs associated with T2, a policy which DAA in its submission seeks to overturn[6]. The CAR made clear in CP6/2007[7] that it did not reach any conclusion as to the acceptable building blocks for the regulatory period 2010-2014, except in respect of the amount of the capital expenditure set out in CIP2006 which would be allowed and the manner in which it would be allowed into the RAB.

11. DAA appears to regard the building blocks approach to price cap regulation to be no more than a mechanism whereby it is allowed to recover its costs in full, regardless of whether those costs comply with the principle of replicating efficient and competitive airport operations. DACC considers that there is no excuse for the CAR simply acquiescing to DAA's claims that it should be remunerated for its costs as proposed going forward without subjecting those costs to a stringent test of efficiency. Dublin Airport has been subject to price cap regulation for long enough for the CAR to have established the efficient costs of operation and for DAA's performance to be tested against such costs. After two full regulatory periods, it is reasonable for users to expect that the operating costs of Dublin Airport should have moved towards the frontier of airport efficiency. Yet DAA has failed to meet previous operational efficiency targets. DACC considers that the CAR must first claw back existing inefficiencies to match target levels set in previous regulatory settlements, as to do otherwise would breach regulatory commitments to users. Regulation should not simply be based on cost pass through, as DAA's submission implies, but on incentivising efficiency and competitive performance.

Financial Viability

12. DACC notes that DAA's primary concern is its financial status and the returns to it shareholders. The section of its response on Financial Analysis is unduly focused on FFO:Debt ratios on the assumption that it needs to continue to raise new finance to fund future capital investment. Given the downturn in traffic and the very limited capital development requirements, DACC does not consider that new debt will be an issue for the forthcoming regulatory period.

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[6] Page 13.
[7] Page 2.

13. DACC also notes that DAA in 2007 claimed that the Draft Determination then proposed (which was eventually confirmed) would prevent it raising capital because of so called asymmetries in DAA's risk profile[8]. It goes on to make similar contentions regarding the CAR's current assessments in the Draft Determination. Clearly DAA experienced no difficulty raising substantial amounts of capital funding following the last Determination, despite these business risks and alleged shortfalls in the financial ratios. DACC considers that DAA is once again crying wolf in order to seek excess returns from the CAR at the expense of its users.

14. DAA appears to seek guaranteed returns for its shareholders through the current downturn. No business operating commercially would expect such guarantees. DACC considers that the CAR must reject this premise as to make a Determination which safeguarded absolutely DAA's equity returns and financial ratios in the current economic climate would transfer all of the risk associated with the current economic downturn from DAA to its users. This would clearly be in breach of the CAR's statutory objectives.

15. Nor can the CAR take any account of the special pleading in section 1.1 of DAA's response that use of sale proceeds from DAA's overseas airport interests and from Great Southern Hotels to support the raising of funds for the capital programme represents exceptional action by DAA. These assets were purchased from revenues generated from users at Dublin Airport and the proceeds from disposal are being correctly applied to reduce the burden of new funding on those users.

16. Due to the level of redaction in the Draft Determination, DACC denied the ability to comment on DAA's specific claims in relation to the CAR's financial modelling. However, DACC maintains that there are fundamental points of principle at stake in relation to the balancing of the CAR's statutory objectives and to the appropriate treatment of commercial risk that over-ride consideration of the minutiae of the financial model.

17. DAA continues to claim[9] that charges at Dublin Airport are amongst the lowest of any major European Airport. DACC submits that DAA is making a specious comparison based on the experience of airlines actually operating at Dublin, as was made clear by bmi in its response to the Draft Determination, where it noted that charges at Dublin have risen by 50% and that the airport is now materially more expensive than other key airports to which bmi operate.

18. We illustrate, in **Figure 1** below, a comparison of Dublin Airport's charges now and the potential level of charges if the Draft Determination was implemented in comparison with revenue per passenger at UK airports handling over a million passengers a year in 2009 prices[10]. It is clear that at the current level of airport charges, Dublin is already towards the upper end of the range of UK airports, with charges approximately equivalent to those published at Stansted and Manchester, both known as high cost airports. Should the CAR's proposals be implemented, even without allowing for the impact of T2 opex, charges at Dublin would be exceeded only by those at London Heathrow and London City Airports.

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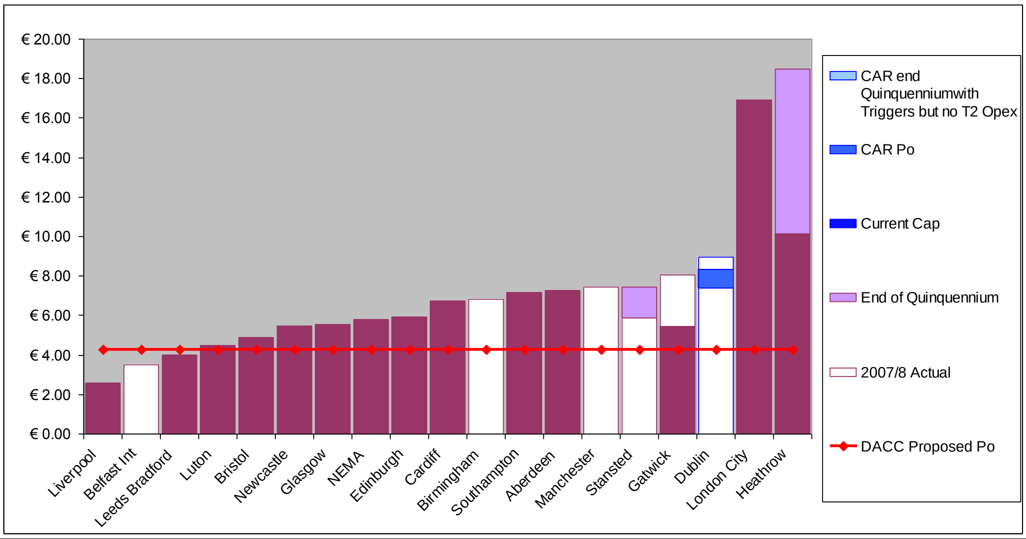
[8] Quote at page 18.

[9] Executive Summary, page 5.

[10] DACC believes that most non-regulated airports have continued to reduce charges in nominal terms since 2007/8, which is the latest published data available.

Figure 1: Comparison of Average Airport Charges per Passenger at Dublin with UK airports



Source: CAA/CRI Statistics

19. As DACC has previously made clear, the comparators used by DAA and the CAR are not appropriate:

- London Heathrow and London City Airports handle exceptionally high proportions of passengers travelling on business at 34.6% and 61% of international passengers respectively[11]. As a result, airline yields are materially higher and airlines are better able to cope with higher airport charges. According to CSO data, the proportion of business passengers using international services at Dublin is less than 16%, lower than the proportions at Manchester and Stansted.

- Other major capital city airports commanding higher airport charges serve much large regions in terms of population and the scale of the economy with a stronger demand base as demonstrated in Table 1. Given the scale of its catchment area, more reasonable comparators for Dublin are the major regional airports in Europe, not the major capital airports, such as London, Paris or Frankfurt.

[11] CAA surveys.

Table 1: Dublin Airport Catchment Region Analysis			
Airport	**Catchment Region**	**Population 2006**	**GDP (€ million) 2006**
Heathrow	Greater South East	21,280,200	€ 846,826
Gatwick	London and South East	15,695,400	€ 677,387
Stansted	London & Eastern	13,069,000	€ 566,401
Munich	Bavaria	12,468,726	€ 414,664
Paris CDG	Ile de France	11,532,398	€ 511,228
Paris Orly	Ile de France	11,532,398	€ 511,228
Milan Bergamo	Lombardy	9,475,202	€ 311,702
Milan Malpensa	Lombardy	9,475,202	€ 311,702
Milan Linate	Lombardy	9,475,202	€ 311,702
Southampton	South East	8,211,200	€ 280,425
Manchester	North West	6,846,500	€ 190,811
Frankfurt	Hesse	6,092,354	€ 209,145
East Midlands	East Midlands	4,345,900	€ 124,209
Hahn	Rheinland Pfalz	4,058,843	€ 99,869
Vienna	Ostösterreich	3,512,176	€ 114,641
Stockholm	Östra Sverige	3,408,022	€ 134,735
Dublin	**Southern & Eastern Ireland**	**3,082,545**	**€ 143,939**
Glasgow	South Western Scotland	2,283,402	€ 64,928
Edinburgh	Eastern Scotland	1,941,045	€ 64,083
Copenhagen	Hovedstaden	1,636,749	€ 82,796
Zurich	Zurich	1,272,590	n/a
Bournemouth	Dorset & Somerset	1,217,100	€ 33,589
Brussels	Brussels Capital Region	1,048,491	€ 60,897
Oslo	Oslo og Akershus	1,039,536	n/a
Aberdeen	North Eastern Scotland	441,240	€ 18,096
Source: Eurostat			

20. DACC reasserts its position that the CAR must first satisfy itself as to the level of costs associated with efficient and economic operation of Dublin Airport, having regard to the specific needs of its current and prospective users as represented by DACC before examining the level of revenue required to secure the ongoing financial viability of DAA. In this context, the CAR should not be distracted by erroneous comparisons with airports serving different markets and different types of users with different ability to pay, as these comparisons are irrelevant.

Service Quality

21. DACC does not agree that current levels of service at Dublin Airport are adequate or that failures have been *"quickly addressed"* as DAA claims at page 21 of its submission. The impact of recent failures in security search are well documented. DACC does not accept DAA's contention that the volume of hand baggage requiring screening has increased from 1.19 items per passenger to 2.8 items per passenger[12] when major airlines using Dublin are strictly enforcing a 1 piece of hand baggage per person rule. DAA's failure to adapt resourcing levels to new patterns of passenger behaviour, which airlines have been advising DAA of for some time, is a clear indication of DAA's inefficiency. These service failures are due entirely to DAA's inefficiency and not to any shortfalls in capacity or basic levels of resources. There is no clearer indication that DAA is failing to provide an acceptable standard of service at Dublin Airport than actual evidence of flight delays and passengers missing flights due to inadequate and inefficient security operations. This is what really matters to passengers, not the so called *"passenger facing"* measures identified by the CAR. DACC considers that the CAR is required by its statutory objectives to take action as a matter of urgency to address specific shortfalls in the quality of service offered by DAA to its customers. DACC does not accept that ACI sample surveys represent a true indicator of the real service quality issues at Dublin Airport as set out at paragraph 176 of its original submission.

22. DACC does not agree with DAA that the implementation of an effective service quality regime at Dublin Airport should be deferred or in anyway curtailed simply because such a regime has not been imposed in previous Determinations as asserted by DAA at pages 22 and 23 of its submission. The need to address service quality failures at Dublin is urgent. DACC notes that the CAA did not feel constrained from implementing an effective and targeted service quality regime at Stansted in the recent quinquennial review simply because it was the first time such a regime was put in place. The CAA listened to the Stansted users and put in place a service quality regime targeted to address specific areas of potential service failure of most importance to airlines and passengers and with penalties up to 7% of charges revenue structured to penalise severe failures of service, such as have been seen at Dublin over recent months, and to incentivise managers to target improvements in service.

23. DACC reiterates the importance of rebates being timely and targeted in order to achieve the objective of incentivising DAA to address service failures. DAA's suggestion that airlines should be refunded the relevant percentage of airport charges 6 months in arrears[13] misses the point entirely that the purpose of the regime is to ensure an adequate level of service is maintained. It is not seen by airlines as simply a mechanism to reduce the cost of operating at Dublin, on the basis that the efficient level of charges at Dublin Airport will have been set under the cap in the first instance. DACC notes that the issues regarding mechanisms of making payments, as raised by DAA at page 24, have all been satisfactorily dealt with by the UK CAA in relation to the London airports.

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[12] Page 29.
[13] Page 24.

24. DAA's proposal that the CAR should merely publish information on performance[14] is not acceptable. Given that there is no mechanism for the CAR to address service quality between Determinations, it is unclear how DAA can claim that the CAR can act to remedy any identified failures of performance other than through a lengthy mid-term review, which would not resolve matters in a timely way.

25. What is required is a service quality regime which deals immediately with severe breakdowns in performance, as proposed by DACC, rather than an unfocussed scheme which examines average performance over lengthy periods of time. DACC commends its proposals in its original submission to the CAR and is ready to meet with the CAR to discuss these specific proposals. Such discussions would include specifying the exact targets for each of the three principal service quality terms, namely outbound security, outbound baggage, and contact stand availability as well as services to passengers with reduced mobility. As stated in its original submission, DACC reminds the CAR that service level agreements are not in place for these activities and DACC does not accept DAA's position[15] that the complexities are such that target levels of service could not be defined. The need for such service levels to be defined and agreed is not a justification for failing to address service quality issues in this Determination. It is regrettable, however, that the CAR has failed to meet with users to date to discuss how the service quality regime is to be designed and implemented.

Forecasts

26. DACC refutes DAA's suggestion that airlines have been *"game playing"* in respect of the work on passenger forecasts for Dublin Airport in the lead up to the Draft Determination as suggested at Page 31 of its response.

27. First of all DAA is aware that the DACC projections set out in Table 6.1 of the Draft Determination were not the final view presented by DACC as part of the consultation meetings on capex. DACC set out its view, at DAA's request, in a note[16] sent to DAA and the CAR on 24th April 2009. This note made clear that:

"*The DACC recognises that DAA has endeavoured to take into account the current market conditions in its latest DAPF09-04 projections but it considers that the projections may not yet factor in:*

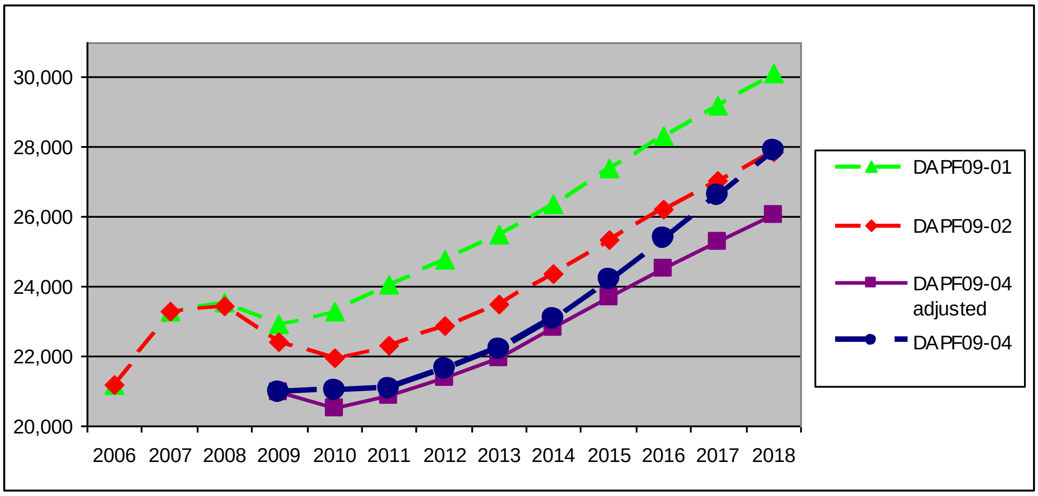
- *More recent projections in the decline of the Irish economy, with the recent Budget assuming a contraction of the economy by 7.7% in 2009 and 2.9% in 2010 compared with the assumptions of -3.5% and -1% made by Fitzpatrick Associates, albeit with faster recovery in 2011 and 2012.*

- *The likelihood that the full effect of the introduction of the ATT has not yet been taken into account as ATT will impact further on airline load factors in the short term, leading to further route withdrawals in the longer term. The DACC considers that it would be prudent to make a further reduction of around 500,000 passengers to the 2010 forecasts to account for this.*

[14] Page 23.
[15] As set out in Pages 26 to 28 of DAA's submission.
[16] Dated 22nd April 2009.

Furthermore, as the same GDP projections were used to prepare the forecasts for the period beyond 2009, it would be surprising if the forecasts converged back to the same level in 2018 as indicated in DAPF09-04, even assuming no further deterioration in the performance of the Irish economy as is being indicated by more recent Government forecasts. Assuming the same GDP assumptions have been used, the DACC would expect to see similar year on year growth rates applying beyond 2009 to those within the DAPF09-02 forecasts On this basis the base forecast would follow a pattern similar to the DAPF09-04 adjusted line shown in the graph below, before the effect of further increases in the cost of operating at Dublin Airport are factored in as well as additional broader economic effects.

Figure 2: DACC Illustration of Passenger Forecasts April 2009



The DACC considers that the next step will be to factor in the effect of the inclusion of aviation in the EU ETS as the legislation is currently in place.

Beyond that, the DACC wishes to see the further cost sensitivity tests applied as set out in its note to DAA of 27th March. This will enable, inter alia, the implications of further potential price increases to be tested. Until such time as these cost sensitivities have been factored in, the DACC does not consider that the DAPF09-04 forecasts can be used for the purpose of planning the future capacity requirements at Dublin Airport although it accepts that the DAPF09-04 adjusted forecasts provide a reasonable basis at this point in time for undertaking this further work on cost sensitivity."

28. DACC was clearly recommending adoption of demand forecasts below those set out by DAA in DAPF09-04 as a basis of considering the need for capex at Dublin Airport during the forthcoming regulatory period.

29. DACC has provided evidence to the CAR, at paragraph 69 of its original submission, of the expected impact of further increases in the cost of using Dublin Airport, as proposed by the CAR, on demand.

30. In DACC's view, the fundamental issue in respect of the demand forecasts for the forthcoming regulatory period remains the DAA's contention that it should be indemnified against all risks attaching to the current downturn in demand. At page 35 of its submission, DAA argues that *"it is not reasonable that DAA should be expected to carry the volume risk arising from the use of projections which are not consistent with those of DAA." DAA argument is unreasonable when at the same time it expects the CAR to transfer all risks associated with DAA's excessive capital development programme onto users in circumstances where* it has proceeded with the construction of excessively sized and specified facilities.

31. DACC reminds the CAR that it recognised the issue in relation to the risk of lower demand at a time of high capex in Draft Determination when it states[17] that *"To rely solely on a higher price cap to improve DAA's financial well being would not be consistent with protecting the interests of current and prospective users."*

32. In order to avoid the inequitable transfer of risk from DAA to users, DACC remains of the firm view that the only reasonable basis upon which the CAR can proceed is to adopt as a 'floor' the forecasts for the final year of the current regulatory period as the basis for setting the future price cap. Otherwise, as set out in our previous submission, all risks associated with the impact of the current recession and the introduction of the air travel tax will effectively be transferred onto users. This will have a further disastrous effect on traffic growth at Dublin Airport and will not be in the interests of either current or future users.

Opex

33. DAA's response on opex makes repeated observations about the difficulty of managing unionised environments and the problems of dealing with an inflexible workforce with restrictive deals and agreements in place. Instead of acknowledging commercial reality and the need to address such difficulties, the DAA simply claims that allowances should be made for its highly unionized environment and its inability to address the accompanying difficulties. It appears to expect that its customers should simply pick up the bill. This comes after DAA has failed to tackle the need to drive efficiencies through the business over the last two regulatory periods in which it failed to meet opex efficiency targets. One of the CAR's statutory duties is *"the efficient and economic development of Dublin Airport"*. As such the inability of DAA to manage its Human Resources issues effectively should not be rewarded by passing the cost of this inefficiency on to users. One of the aims of regulation is to produce an outcome that is close to what might have occurred if effective competition were in place. As such, the CAR must reject this special pleading by the DAA.

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[17] Paragraph 10.11.

34. It is quite astonishing that DAA should selectively quote an observation from an obscure economics working paper[18] in order to justify its forecast of real wage growth over the period[19]. DAA appears to be saying that in times of recession, for reasons that are unclear even to the authors of the paper, real wages levels in Ireland have been observed in the past, in some sectors, to go up rather than down. Furthermore, DAA does not appear to understand the difference between an assumption of zero real wage growth and the CAR's assessment of potential GDP growth accompanied by CPI growth as a driver of demand. DAA takes this misinterpretation of data for seeking an increase in the real wages of its employees at a time when its customers are facing the worst recession in the industry for years, because, after all, the cost can simply be passed on to the customers! This is sophistry of the worst kind and the CAR should reject it as meaningless and irrelevant in the context of its statutory duty to users.

35. It is interesting to note DAA's observation[20] about companies responding to reduced demand by reducing capacity but claiming that it cannot reduce the level of its own existing fixed costs. It fails to mention, however, that it can reduce or defer its planned expenditure, and DACC looks forward to seeing it take steps to do this. Furthermore, this is at odds with DAA's acknowledgement at page 5 of its submission that it is implementing *"a wide-ranging cost recovery programme"* in order to *"maintain Dublin Airport's position as an extremely competitively priced airport."* The benefits of this programme should clearly be passed onto users.

36. With regard to wage growth, although DAA is correct in observing that nominal pay cuts do not imply real wage cuts, it defeats its own argument by quoting[21] the Central Bank and Financial Services Authority of Ireland, which identifies a real forecast increase in 2009 of just 0.75% - a figure which still contrasts starkly with the DAA's assumption of 4%. Furthermore, the quotation from the Central Bank is not, as DAA claims, the most recent, being taken from the April 2009 Economic Commentary. A more recent Commentary, published in July, has a forecast for an increase in the nominal decline in wages since April from 3.25% to 3.9%:

> *"Accordingly, the wage outlook is set to weaken, with average nominal compensation per employee forecast to decline by 3.9 per cent in 2009, followed by a further fall of 3.1 per cent in 2010. When combined with the projected fall in the number of non-agricultural employees, it suggests that the non-agricultural pay bill will fall by 12.4 per cent and 7.5 per cent in 2009 and 2010, respectively."* [22]

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[18] Referenced in footnote 26 to paragraph 4.2.1 of the DAA Response.

[19] DAA conveniently forgets to mention that the paper from which it quotes examined data from the competitive manufacturing sector alone and is entirely irrelevant to the management of airports.

[20] At Page 38 of its Response.

[21] In paragraph 4.2.3

[22] Central Bank, Quarterly Bulletin 3, July 2009 http://www.centralbank.ie/data/QrtBullFiles/No.%203%202009%20Economic%20Commentary.pdf

37. This now suggests that the CAR's zero real wage growth assumption is broadly correct and makes DAA's 4% real growth assumption look just plain wrong, unless the DAA intends to plead once again that it should be treated as a special case because its highly unionised workforce is likely to hold it to ransom in demanding pay increases, which airport users should be expected to fund! It is significant that one of the few independent respondents, other than the airlines, the Irish Hotels Federation, recognises that the response of the both the CAR and DAA does not replicate what is happening to wages and opex more generally, stating:

"The IHF proposes that the regulator should take a more active and ambitious approach to cost levels in Dublin Airport including substantial efficiencies and lower labour costs per person in line with what the rest of the economy is experiencing. In addition, the cost reductions should be introduced in 2010 instead of phasing over a three year period…………….This would represent a more active approach by the regulator in driving efficiencies and reducing costs. It would be an approach which meets the needs of the economy and supports its statutory objectives to facilitate efficient and economic development of the airport to meet the requirements of users, to protect reasonable interests of users and to enable DAA to operate and develop the airport in a sustainable and financially viable manner. This approach would put more emphasis on cost reduction rather than price increases. This is an approach the entire economy must adopt."

38. The DAA again makes reference[23] to being in the process of implementing a *"cost recovery programme"*, although again there is no specific indication of what this will involve and no estimate of the efficiency improvements that might be realised from it. The DAA simply protests that reducing employee numbers will be very difficult for it to achieve, presumably expecting the CAR to be sympathetic. It should not be. The CAR has to regulate DAA as if it was a commercial airport, replicating operations in a competitive environment, without regard to special pleading in relation to obligations which DAA considers itself to have as a semi-state body.[24] The CAR must regulate on the basis of what response an airport operating in a competitive environment would make when faced with the need to cut costs.

39. There is no case, as is suggested in paragraph 4.3, for DAA to *"be remunerated for the upfront cost associated with delivering reduced staff costs"*. This is tantamount to expecting users to subsidise DAA's own inefficiency.

40. In relation to the Indecon Jacobs (IJ) Report, where this does not appear to be favourable to it, DAA claims that IJ has drawn simplistic conclusions and warns that benchmarking data can be unreliable. However, DAA is perfectly happy to draw its own simplistic conclusions from the selfsame data when it suits it, such as claiming that IJ's passenger per employee analysis shows that *"airports with higher degrees of insourcing...are in fact more efficient"* – a claim that is highly dubious. Similarly DAA *"welcomes"* the claim made by IJ that operating costs per passenger at Dublin appear to be relatively low in its benchmark analysis, but rejects rest of the analysis as *"fundamentally flawed"*. Either DAA should reject the basis on which IJ has compiled its data or it should accept it –it cannot accept and reject the report at the same time.

[23] at the start of paragraph 4.3
[24] Page 41.

41. DACC has been denied the ability to comment on the specifics of the IJ report in the light of the substantial redactions of detail from the report but remains of the view that previous efficiency targets should be taken as the start point for considering opex for the forthcoming regulatory period and then for the proposed cost reductions to be explicitly factored in. In the light of the complete lack of transparency to users, any suggestion that costs be simply passed through should be roundly rejected.

42. DACC repeats its previous position in relation to T2 operating costs and considers that there is no case for any such costs, opex or capex, to be passed onto users until it can be demonstrated that the increased capacity can be effectively utilised to the benefit of users of Dublin Airport. The trigger for this would be a passenger throughput using the airport in excess of 25 mppa and/or the provision of additional runway capacity enabling growth in busy hour movements. As neither condition is expected to be realised in the forthcoming regulatory period, there should be no costs associated with T2 included within the building blocks calculation at the present time.

43. Secondly, once the conditions for effective use of the incremental capacity provided by T2 have been reached, DACC maintains its position that the CAR must determine what level of increase in opex would represent an efficient net increase in cost over the airport as a whole, which DACC has assessed based on precedent elsewhere as no greater than 10% of opex overall[25]. Whilst the costs of providing some of the services in T2 may be the outcome of a tendering process, DACC remains concerned at DAA's involvement in the process and the totally lack of transparency. It will not be sufficient to simply make marginal adjustments to T1 costs as the CAR proposes as this would negate the purpose of tendering the provision of services in T2, which was intended as a mechanism for ensuring cost effectiveness across the airport site to act as a spur to achieving greater efficiency and lower costs for users overall.

44. DACC does not accept that DAA's tendering costs should be passed onto users as it suggests at page 45 of its submission as other tenderers will not be able to pass on their tendering costs. Allowing DAA to pass through its tendering costs would be particularly perverse in the event that it loses the tender as its operating costs are demonstrated to be inefficient.

45. As set out in correspondence, DACC is awaiting discussions with the CAR as to how operational cost efficiencies may be achieved more generally. DACC is of the opinion that the CAR cannot set a price cap including T2 costs until the tendering process is complete and there can be a transparent assessment of the impact on operational costs overall. This would suggest that, at the very earliest, this would need to be the subject of an Interim Review of the Determination when the demand recovers to the level that T2 capacity can be efficiently used and the operating cost implications are known.

[25] Paragraph 92 of the original submission.

46. In specific relation to PRM costs, DACC rejects the CAR's opinion set out in CN1/2009 that current PRM costs at Dublin Airport are transparent. Costs cannot be transparent whilst DAA declines to make information available in a form which allows users to assess the reasonableness of such costs by reference to the costs of providing similar services elsewhere. PRM costs have on average tripled since DAA started to manage the process and, despite strenuous efforts, users still have no transparency on how these costs are incurred. DACC notes that the decision of the CAR set out in this notice covers the period to the end of 2009 only and does not cover the period of the forthcoming Determination. There can be no pass through of these costs into opex until such transparency has been attained. DACC rejects DAA's claim that such costs should be simply passed through outside airport charges[26] as this would render DAA's charges inconsistent with those at other regulated airports.

Commercial Revenues

47. DACC has already set out its views as to the appropriate commercial revenue targets for the forthcoming regulatory period within its original submission. The main issues raised by DAA's submission relate to DAA's assertions as to commercial revenues to be generated by various capex schemes which are at odds with information given to users during the capex consultation meetings (and associated information disclosures). Hence, DACC considers that the CAR is duty bound to reject these assertions.

48. DAA sets out, in a table on page 51, claims as to commercial revenues which are put at risk as a consequence of the CAR disallowing certain capital expenditure. However, in common with most of DAA's submissions, crucial figures are redacted, rendering the presentation meaningless. DACC notes, nonetheless, that DAA is now claiming specific commercial revenue benefits for schemes for which users had requested estimates of revenue and were told than none were available, specifically:

- in respect of the MSCP (and Hotel), DACC has already made clear that the figures disclosed by DAA did not show the car park attaining a commercial return over its life[27].

- in respect of Hangar Maintenance, this was presented as an operational project not a commercial project. When users asked for an assessment of expected revenue generation to justify this project at the Capex Consultation meeting on 8th April as set out in the transcript, DAA said that no estimate was available and no information was disclosed despite users requesting the assumptions made as to income as part of the business case.

- the same is true in respect of tenanted accommodation where DAA was unable to provide any estimate of income to be generated in respect of such developments during the capex consultation process.

[26] Page 48.
[27] Paragraph 155 of the original submission.

- nor did DAA demonstrate transparently how the proposed retail refurbishment schemes would generate incremental revenues. DACC has already demonstrated that previous retail refurbishment schemes have not attained a commercial payback[28] and DAA does no more than assert a redacted figure as the basis for seeking an additional allowance of €8 million capex without any transparent justification.

- DAA, in its presentation to the Capex Consultation Meeting of 22nd April 2009, claimed €0.99 million a year of incremental retail income as a consequence of the Passenger Processing enhancements. Again no transparency is provided in DAA's response as to the basis upon which incremental income is asserted. The claimed incremental retail income from both this scheme and from the retail refurbishment scheme more generally is entirely contradicted by the real reduction in retail income per passenger assumed by the CAR in its ready reckoner, as DACC has already pointed out in paragraph 103 of its original submission.

49. DAA has not met the test set out for it by the CAR[29] to disclose transparently the business case for any of these projects or to justify claims that users will be better off if the expenditure is allowed. We comment further in relation to capital projects later in this submission.

50. DAA asserts in its submission that the CAR must either allow the capex for these projects or make reductions in the assessment of commercial income of the order of €40 million over the forthcoming regulatory period. However, to the extent that the commercial income estimates made by the CAR are a function of multipliers of passenger growth, DACC considers that the CAR's assessments will already have excluded any specific income from such developments which could only be achieved through growth in demand for car parking, tenanted accommodation or passenger numbers overall. Hence, making further excisions from the commercial revenue estimates would be to double count the impact of the slow down in demand growth at the airport, which has already been taken into account in the CAR's commercial income projections.

51. More recent data from the CSO shows that the steep decline in retail income following the onset of the recession is now recovering as illustrated in **Figure 3**, particularly once motor trades are excluded. Cosmetic items, which form a substantial volume of sales at the airport, actually recorded 10% year on year growth to June 2009[30]. DACC does not consider that the CAR should take further account of recessionary impacts than it has already done in taking GDP into account.

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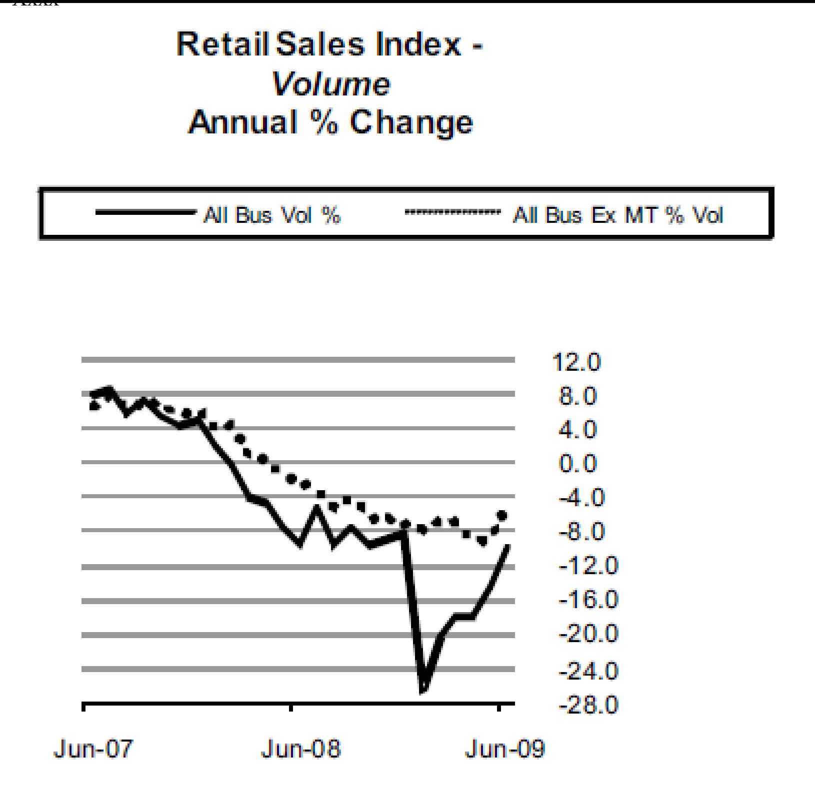
[28] Paragraph 154 of the original submission
[29] Paragraph 155 of DACC's original submission.
[30] According to the CSO website.

52. In relation to T1X, DAA has still not set out transparently the incremental income earned from T1X. Once again, figures in DAA's response have been redacted. The issue is not what income DAA is deriving from the retail and catering outlets in T1X, as DAA appears to imply on page 65 of its response, but the extent to which incremental income is being earned. The assertion of incremental income is at odds with the reported/projected decline in retail income per passenger. DACC would remind the CAR that the comparison should not be between the period immediately prior to and post the opening of T1X, as DAA sets out on page 66 of its response, but comparing the impact prior to the closure of Pier C and the re-routing of a material number of passengers away from those retail units. On the basis of data set out in ready reckoner, T1X has not resulted in any incremental retail income per passenger over levels in 2007[31].

Figure 3: Irish Retail Sales Trends



Source: CSO

53. In relation to Access to Installation fees, DACC does not agree with DAA's position, as set out on page 67 of its response, that the level of such fees does not warrant regulation, even under the terms of the S.I. Nor does DACC accept that DAA should mechanistically be allowed to recover its asserted costs for the totality of its check-in desks regardless of the extent to which users actually require check-in desks. This is because:

[31] Paragraph 103 of DACC's original submission.

- the apportionment of costs to check-in desks has not been transparently set out;
- users should not be penalised under a cost apportionment mechanism in having to pay for check-in desk resources which they do not need;
- charges should be levied on the basis of an efficient cost per desk, with costs transparently set out;
- making users pay for facilities not actually required would not be economically efficient.

A mechanism based on the efficient cost per desk would encourage efficient use of infrastructure and would be consistent with the CAR's statutory objectives to facilitate efficient operation of Dublin Airport. As indicated in DACC's submission in response to the Draft Determination, space freed up from unused check-in desks can be used to enhance the efficiency of terminal operations overall.

54. As set out at paragraph 155 of its original submission, DACC does not accept the case for car parks to be taken outside of the single till. In particular, the short stay car parks in the terminal area are a monopoly product and not subject to competitive constraints. As such they must remain within the regulatory till.

Capital Costs

55. As we have noted earlier in this submission, DAA in its comments on depreciation on page 71/74 of its response is seeking to vary the principles in relation to the treatment of T2 costs which were confirmed following the previous Determination. DACC continues to believe that a unitised approach to capital costs represents a fair division of risk between DAA and its users and rejects DAA's claims of potential regulatory uncertainty[32]. The CAR has an express duty to safeguard the reasonable interests of users which may not be attained by allowing for a step change in prices when new capex is brought into the RAB under DAA's proposals.

Opening RAB

56. DACC made clear in its original submission its view on the appropriate deductions from the opening RAB. These views stand. We set out here specific comments on DAA's views as set out in its Supporting Document IV.

57. DAA asserts that its project management costs have been excluded in the CAR's adjustments to the opening RAB. However, DAA has still not transparently set out the treatment of these capitalised costs to ensure no double counting with opex as requested by DACC on 16th April 2009[33]. Given the comments by Booz & Co in its report for the CAR[34] that DAA's staffing in relation to programme management *"is much higher than we would expect"*, DACC does not accept that any additional project management costs have been efficiently incurred and considers that the CAR must reject the claim for any such costs to be included in the opening RAB.

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[32] Page 73.
[33] Letter appended to original submission.
[34] Report June 2009, page 50.

58. In relation to the Section 49 levies, which were not originally allowed for in the 2006 CIP, DAA's response confirms that these levies are T2 related[35]. The CAR will need to satisfy itself that these fees will actually be incurred before the end of 2009. Moreover, as the costs are T2 related, they should be subject to the same deferral of recovery as applies to other additional T2 costs and subject to unitisation.

59. In relation to Pier D, DACC restates its view that the pier is over-sized and does not meet the requirements of users. As such, DAA's claim[36] that the construction cost of the pier is consistent with external construction cost benchmarks fails to take account of the over-sizing and over-specification of the pier.

60. Furthermore, DAA acknowledges that the CAR has proposed to allow costs associated with the TBG into the opening RAB. In the light of recent correspondence from DAA[37] that it proposes to take the TBG out of use, without first having consulted users and despite their express opposition, such costs must be excluded should the facility close.

61. In relation to T2 Associated Projects, it is clear from DAA's explanations that that these projects were all triggered by the decision to construct T2. Hence, there is no justification for treating these projects other than in the same manner as T2. To the extent that projects such as the relocation of car hire companies, the new gas main, electrical system enhancements and the other service related projects listed by DAA in Annex IV relate to growth in passenger numbers facilitated by T2, these are all legitimately T2 related projects.

62. In relation to the T2 Box 2 Financing Charges, the CAR's proposal to claw these back is consistent with the decision of the Aviation Appeal Panel in December 2008[38] when it said that *"Insofar as the remuneration of Box 2 pending the trigger of 33 mppa imposes costs on users of Dublin Airport, it is contrary to Section 33 (1)(b) of the 2001 Act."* DACC considers that the CAR has no option but to make this adjustment, notwithstanding its erroneous treatment of such costs in the previous Determination.

63. DACC does not accept DAA's claims for further sums to be allowed into the opening RAB for projects as listed on page 9 of Annex IV. As pointed out above, DAA declared its intention to close the TBG. Users funded this facility through airport charges and require the retention of this facility.

64. DACC does not accept that the increased fit out costs for Pier D ramp accommodation have been justified by higher rental income. As discussed at the Capex Consultation Meeting on 29th May 2009 and recorded in the transcript, the higher rental levels being sought by DAA as a consequence of the over-specified development have resulted in tenants moving off-site and space being left vacant, with overall rental income levels not being attained. This is a clear indication of DAA building facilities which do not meet the needs of users.

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[35] Annex IV, page 4.
[36] Annex IV, page 4.
[37] Letter to AOC of 27th August 2009
[38] Ryanair Appeal.

65. In relation to fees related to relocation of the engine test facility, DACC maintains its position that DAA should not be remunerated for any costs related to this development until such time as the need to relocate the engine test facility is triggered by the construction of a new runway.

66. DACC considers that DAA did not adequately consult on increases in outturn cost in relation to the projects described by DAA on page 10 of Annex IV. In DACC's view, the requirement for a second phase of the GNIB project is a consequence of inadequate staffing of the area at peak times and that users should not be liable for the additional capital costs caused by inefficiencies in service provision.

67. DACC has no record of consultation in relation to the Runway 10/28 stopbars.

Post 2009 Capex

68. DACC made clear users' requirements for additional capex over the period 2010-2014 in its original submission. We comment here on those areas where DAA differs from the CAR or where it has brought forward additional information in Supporting Document V.

CIP 8.200 Programme Management

69. DACC maintains its position that extensive programme management costs are not required in the forthcoming regulatory period, particularly if the total quantum of capital works is scaled back in the light of the downturn in demand. DACC agrees with the CAR that DAA's claim for programme management costs of €30 million need to be dramatically scaled back and DACC considers that €1.5 million will be more than adequate to manage the limited capital programme actually required by users over the period to 2014.

70. *CIP 6.051 North Runway Construction Works/CIP 6.019 North Runway House Buy Out*

71. DAA fails to substantiate the case for a runway of length 3,660m in Annex V. A runway length in excess of 3,110m is not required to allow airlines to operate services to Singapore, Kuala Lumpur, Hong Kong and Bangkok as asserted by DAA on Page 5. Routes to these destinations can and do operate from runways of around 3,000m, although airlines may, if asked for the ideal runway length, indicate a longer length as desirable.

72. It should to be remembered that the total scale of the catchment area served by Dublin Airport is relatively small in European terms as we have set out in Table 1 above. The scale of demand is such that services are likely to be operated by lower capacity long haul aircraft. The development of new generation long haul aircraft with medium capacities, such as the B787 and A350, will be ideally suited to develop new long haul markets from runways of around 3,000m and for markets of the scale of that offered by Dublin Airport for the foreseeable future.

73. Whilst some airlines may have indicated a preference for a longer runway when asked by DAA, it is significant that IATA, in its response to the Draft Determination, notes that in relation to trigger projects *"Specification and timing of such triggers should be best agreed with the airlines operating at Dublin."* It remains the case that DAA has yet to demonstrate that there is a business case for a longer runway. As such their claims must be dismissed by the CAR.

74. DACC refutes absolutely DAA's claim[39] that, in questioning the need for a runway of over 3,600m in length, existing airlines at Dublin are seeking to restrict competition. This would only be arguable if airlines were objecting to the provision of additional runway capacity when it is required and on the basis of a justifiable scheme, which they are not.

75. DACC remains of the opinion that the requirement for additional runway capacity can be met for the foreseeable future by reopening Runway 11/29, which could be extended at a later date if demand warrants. Based on information disclosed by DAA on 21st May 2009, the cost of refurbishing Runway 11/29 is only €4.5-5 million, which will provide sufficient capacity once a reasonable trigger for the provision of additional runway capacity is reached.

76. DACC does not see how DAA's suggestion that it should be allowed to build a longer runway at its own risk could be accommodated under the legislation as the charges for using such infrastructure fall under the statutory definition of 'airport charges'.

77. DACC does not accept that users should be liable for the costs of purchasing houses which may be affected by blight from a new runway until such time as the construction of the new runway is committed. DACC certainly does not accept that there is justification for including house buy out costs related to the full 3,660m runway scheme. Users have not been adequately consulted on DAA's proposed voluntary buy out scheme and DACC does not accept that any such costs should be allowed into the RAB until such time as it is clear which runway scheme will be triggered and when.

CIP 6.017 Overlay Runway 10/28

78. DACC does not accept DAA's assertion[40] that the impact of a larger scheme on the price cap is not material. Each adjustment to the price cap has a cumulative effect. DACC has made clear its preference for the lower cost option and agrees with the CAR's decision in the Draft Determination to provide for this option.

CIP 6.054 Taxiway CL lights and associated stop bars

79. DACC does not dispute that this project may be desirable but remains of the view that it is not essential at this point in time, given the current downturn in demand and severe pressure on costs. DACC supports the CAR's decision to exclude this project at the present time.

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[39] Annex V, page 6.
[40] Annex V, page 12

CIP 6.053 Engine Test Facility/CIP 6.009 Fees

80. At the Capex Consultation Meeting on 6th May 2009, DAA stated that it was still considering a number of locations for relocating the engine test facility as recorded in the transcript. It is unclear, therefore, on what basis DAA puts forward definitive costings as it does on Page 16 of Annex V. These costs are described as relating to very precise areas of concrete related to a specific, but unknown, location. There has been no consultation with users regarding this location since the 6th May meeting so the CAR has no justification for deviating from its previous view as to the target cost. In any event, expenditure on this project, including design fees, should not be allowed until such time as the need for additional runway capacity has been triggered and its final location and configuration confirmed as necessitating the relocation of the engine test facility.

CIP 6.052 Central Apron Reconstruction

81. DACC remains of the view that this project could be phased and prioritised such that spending in the period to 2014 can be contained to no more than €9 million.

CIP 6.055 B7 Taxiway Overlay

82. DACC remains of the view that the lower cost refurbishment option presented at the Capex Consultation Meeting on 29th May is sufficient for the present levels of traffic.

CIP 7.032 T1 Passenger Processing Enhancements

83. DACC notes that DAA has developed a new scheme for consolidating T1 security operations. There has been no consultation with users regarding this proposal. DAA was challenged to demonstrate that there was a business case for incurring the cost of relocating security, particularly if T2 opens and substantially fewer passengers are using T1. It has not transparently done so.

84. In any event, the concerns expressed by DACC at the Capex Consultation Meeting on 22nd April 2009 and recorded in the transcript remain. DACC remains of the view that relocation of T1 security as proposed will result in excess walking distances. An increase in walking distance of 101 metres would result in additional walking times of around 1½ minutes for older passengers and those carrying hand luggage, even without allowing time for browsing in the shops or any congestion along the retail areas. DAA's estimate of only 1 minute additional walking time appears based on the fastest walking speeds for young people[41]. The time to reach Pier D, even without congestion or time for shopping would be 9 minutes for elderly passengers and the time to reach the further gates would be even longer. This would clearly place flight close out times in jeopardy and is likely to increase the chance of flight delays. Relocating security as proposed is unacceptable in terms of service quality.

[41] http://en.wikipedia.org/wiki/Walking#cite_note-3

CIP 7.035 Pier B Connectivity

85. DACC remains of the view that this omission from the T2 construction contract was an error made by DAA, as the link was clearly indicated on the original plans for T2. Had connectivity been designed in from the outset, as required to enable a high proportion of T2 passengers to use Pier B which was always the design intention, then it is reasonable to expect a more economical solution to have been incorporated in the T2 plan. This is a mistake by DAA, which DAA must pay for without further recourse to users.

CIP 7.036 T1 Life Safety Systems

86. DAA told users at the Capex Consultation Meeting on 29th May 2009 that this project had not yet been scoped:

> *"What we want to do is look at the existing infrastructure in detail and then determine what can be kept, what can be reused and so on………..We are still at design stage as we said. What we will do is complete the detailed design as soon as we have got the report in as to what the system is capable of doing without being totally replaced and we absolutely would consult."*[42]

87. There has been no further consultation with users and DACC is not aware that investigations as to how much of the existing system can be retained have been completed. It is not clear, then, how DAA is now able to be definitive at page 22 of Annex V as to the capex required, with very precise estimates of works and areas. DACC remains of the view that the €2.4 million allowed by the CAR is adequate for the next phase of works over the period to 2014. This would be broadly of a similar scale to the volume of works undertaken during the current regulatory period.

CIP 2.018 Cargo Distribution Centre/CIP 2.017 Hangar Maintenance

88. These projects appear, from Annex V, to have changed fundamentally from those set out in the CIP. There has been no further consultation with users and on that basis alone, expenditure on these projects should be rejected in its entirety. DAA was unable to support the proposed cargo distribution centre scheme by any business case during the capex consultation process. Nor was DAA able to estimate expected income from the refurbished hangars sufficient to justify the expenditure on maintenance. DAA now sets out indicative rental figures for these developments at page 24 of Annex V but these cannot be verified. DACC considers that there needs to be further consultation with users regarding this revised scheme and significantly greater transparency regarding income generation, through the presentation of a business case, before any sums are allowed into the RAB.

CIP 9.024 Fuel Farm

89. DACC reminds the CAR that users have indicated a requirement for 2 not 3 additional fuel tanks. In this way, it will be possible to preserve the existing loading facility, avoiding €2.5 million of additional cost as claimed by DAA[43]. Furthermore, DACC is aware that BAA is proposing to build an additional fuel tank at Stansted for around €2.6 million, which indicates that DAA's cost estimates are significantly too high for the provision of the fuel tanks in any event.

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[42] Transcript pages 169/170
[43] Annex V, page 27.

90. The additional cost claimed by DAA for connecting the fuel farm to Pier E further weakens the business case for the provision of a hydrant on Pier E. DACC reminds the CAR that DAA has still to present a business case to users for the provision of hydrant refuelling, which users consider should be a commercial matter for the fuel companies and users in any event. DACC does not accept the CAR's proposed trigger for the fuel hydrant project until such time as a cogent business case for the expenditure by DAA.

CIP 5.013 Retail Refurbishments

91. DACC remains of the view that DAA has not made a convincing case for <u>any</u> expenditure on retail refurbishment during the forthcoming regulatory period, particularly given the intention to reduce the proportion of direct retailing in favour of concessionaire activity. It would be reasonable to expect concessionaires to undertake their own fit out and DAA acknowledges that there are higher returns from concession outlets.

92. DACC finds it incredible that DAA should cite[44] the increased retail areas in T1X and T2 as a justification for increased spending on refurbishment in the period to 2014. Both these facilities are new and it is not credible to suggest that there will be any substantial need for refurbishment over the period to 2014. DACC notes that BAA at Stansted has made no allowance for costs associated with retail refurbishment in its 5 year capital programme so it is not clear why any such expenditure is needed at Dublin, particularly in the light of the new facilities in T1X and in T2, when it opens.

CIP 1.006 Multi-storey Car Park

93. DAA's response to the CAR's exclusion of the MSCP from the RAB still fails to address how there is a business case for the provision of additional car parking spaces over the period to 2014 when demand to use Dublin Airport will be contained within 2008 demand levels. Once again crucial figures have been redacted[45]. DACC remains of the firm view that the business case for this development has not been made.

CIP 2.014, CIP 2.015, CIP 2.016

94. DACC remains of the view that there can be no justification for investing in refurbished office accommodation as the likelihood of any take up of space by tenants in very small in the light of the downturn in demand to use Dublin Airport. DAA, at page 32 of Annex V, highlights that tenants are downsizing their accommodation requirements or leaving Dublin Airport. This is a consequence of the high rental levels being charged. DACC fails to see how substantial expenditure on accommodation refurbishment would attract additional tenants to the airport.

Triggers

95. DACC set out clearly in its original submission its view that, at best, triggers would as proposed would initiate a discussion between DAA and its users as to the scope and timing of the proposed trigger projects. It is clear that the scope of these projects has not yet been agreed as meeting the requirements of users. This applies particularly to the runway, apron and fuel hydrant projects.

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[44] Annex V, page 29.
[45] Annex V, page 31.

96. In relation to DAA's assertions[46] as to when the costs of T2 should be remunerated, DACC has already made clear that users should not pay for T2 until the additional capacity which it provides can effectively be used.

97. DACC's views on other issues remain as in its original submission.

10th September 2009

[46] Page 85.