

---

daa Response to IAA Draft Decision on Ryanair Airport Charges Complaint

2<sup>nd</sup> July 2024

---

## Contents

Executive Summary.....	
1 Introduction .....	1
2 Legislative and Policy Context .....	5
3 Price Discrimination and Unbundling .....	15
4 Transfer Passenger Charge .....	23
5 Runway Movement Charge .....	28
6 Low Emissions Aircraft Discount .....	35
7 Nitrogen Oxide (NOx) Charges .....	43

## Figures

Figure 1. Transfer Passenger Airport Processors .....	26
Figure 2. Dublin Airport Runway Movement Charge 2024 .....	28
Figure 3. S24 Runway Movement Charge by Aircraft type.....	30
Figure 4. Runway Movement Charge vs. Actual Payload .....	32
Figure 5. Runway charge per tonne at peer airports.....	33
Figure 6. Discount per tonne of MTOW.....	39
Figure 7 LTO Fuel vs. MTOW (<105 tonne).....	40
Figure 8. LTO Fuel vs. MTOW (>105 tonne) .....	40
Figure 9. Dublin Airport Air Quality Monitoring Stations .....	44
Figure 10. Average NO2 Levels at Dublin Airport .....	45

## Tables

Table 1. Directive 2009/12/EC checklist .....	3
Table 2. Cost Reflectiveness .....	12
Table 3. Types of Price Discrimination.....	15
Table 4. Dublin Airport Passenger Service Charges .....	23
Table 5. Transfer Passenger Charge 2022-2024 .....	24
Table 6. Summer 2023 Transfer passengers at peer airports .....	25
Table 7. Dublin Airport Runway Movement Charge.....	28
Table 8. Runway Movement Charge 2024 Proposed vs. Final .....	29
Table 9. 2024 Forecast Runway Tonnage Revenue.....	31
Table 10. Runway Charge per tonne of payload vs. MTOW .....	32
Table 11. Banded Runway Movement Charge at European Airports .....	33
Table 12. [REDACTED] .....	35
Table 13. Increase in Ryanair Noise and CO <sub>2</sub> Emissions .....	35
Table 14. Low emissions aircraft movements at Dublin Airport .....	38
Table 15. 2024 LEAD discount by aircraft.....	38
Table 16. CO <sub>2</sub> Emissions per RPK .....	41
Table 17. Comparator Airports .....	46

## Executive Summary

daa disputes the IAA provisional findings of non-compliance and believes the IAA's approach would give rise to problematic over-regulation, conflicts of law, and incentives for users to make tactical complaints which are more likely to harm than to benefit users and passengers.

The Draft Decision published by the IAA rejects reasonable environmental initiatives, unequivocally accepts one airport users' point of view on complex issues and makes non-compliance findings which hinge on incorrect interpretations of the law. The IAA rely on a Thessaloniki Forum paper as providing grounds for it to apply a 'test' on each of the disputed charges and incentives. This was not the intended use of the Airport Charges Directive on a highly regulated airport like Dublin Airport. This approach employed by the IAA uses complicated language suited to an economic regulation context to determine if a charge or incentive is "objective", when "objective" was intended to be a simple, baseline standard that can be reconciled without complex analysis. This approach employed by the IAA is a subjective test to determine if a charging criterion is objective, which is contradictory in nature.

The IAA were participants in the airport charges consultation process, attending the consultation meeting and had full visibility of all consultation material. It is concerning that no comments, compliance concerns, or queries were raised by the IAA representatives during the process. However, on receipt of a tactical Ryanair complaint motivated by anti-competitive cost reductions, allusions of noncompliance are raised.

It is apparent that the IAA's views and application in an airport charges context contradict Government policy and objectives. Have the IAA discussed or articulated their position on Ireland's environmental policies and objectives and how they should (or shouldn't) be addressed by airports with the Department/Minister for Transport? Why have the IAA ignored Ryanair's non-compliance of the Airport Charges Directive and only focused on daa's alleged breach of the Regulations?

daa deem this complaint process to be counterproductive and resource consuming for all parties. This demonstrates that the current structure of economic regulation in relation to airport charges for Dublin Airport is not fit for purpose. This may serve as evidence in any future regulatory reviews commissioned by daa and/or future governments. Stringent ex-ante regulation does not necessitate an onerous & invasive ex-post regulatory complaints process.

daa do not believe that additional compliance costs are in the public interest. The risk of any breach in the 2011 Regulations is minimised by the significant bargaining power of airlines operating at Dublin Airport. Based carriers at Dublin Airport constitute almost 80% of the market. This dynamic illustrates how the based carriers possess a high degree of market power, asserting a strong bargaining position at the expense of the airport. This counterbalances any apparent market power that the airport may have.

Ryanair had no objection to the state funded Traffic Recovery Support Scheme as they were the largest beneficiary, while the IAA (then CAR<sup>1</sup>) did not provide a view on whether it satisfied the 2011 Regulations. The objective of the complaint is to lower Ryanair's own costs

---

<sup>1</sup> Commission for Aviation Regulation

and increase the costs of competitors. This fact is demonstrated by Ryanair's requirement to disclose risks to its business under the Securities Exchange Act<sup>2</sup>. This submission outlines how environmental regulation may increase Ryanair's costs, such as levies protecting the environment (i.e. a NOx charge) including those relating to carbon emissions. Ryanair highlight that this may require significant expenditure and impact its business, operating results, and financial condition<sup>3</sup>.

It is imperative that the IAA ensure that section 45 (b) of the Air Navigation and Transport act as amended, is not abused as a mechanism for airport users to garner a cost advantage over competitors, with a measured and balanced Final Decision.

daa herewith contests the approach adopted by the IAA in assessing each of the complaint grounds and disagrees with the IAA's position. daa's response, justification and supporting qualitative and quantitative analysis are detailed as follows;

**Section 1** provides context and background to the complaint and daa's compliance.

**Section 2** outlines daa's views and interpretation on legislative and policy mechanisms.

**Section 3** highlights price unbundling as necessary and justified by economic theory.

**Sections 4 to 7** provide response under each complaint ground.

The Ryanair complaint and subsequent IAA Draft Decision further serve to demonstrate the pronounced disconnect between aviation stakeholders in Ireland. From policy setting within the Department of Transport, to the competent authority for aviation security, safety and economic regulation, to airports and airlines. The regulatory framework governing Dublin Airport must enable the business objectives, serving as the catalyst for future aspirations rather than hindering operations with decoy bureaucracy. Dublin Airport is committed to sustainable growth by increasing and maintaining a competitive aeronautical charging framework, which fits our statutory commercial mandate.

daa request the IAA to reconsider its position on all complaint grounds in its Final Decision following the evidence and analyses provided in this response. If the Final Decision were not revised, the views demonstrated by the IAA would not only set a precedent for future consultations but have wider consequences in relation to the upcoming review of Directive 2009/12/EC, related complaints and litigation proceedings brought before ISA's<sup>4</sup> and the courts in other EU jurisdictions.

---

<sup>2</sup> [Securities Exchange Act 1934](#)

<sup>3</sup> [Ryanair Form-20F](#)

<sup>4</sup> Independent Supervisory Authority

# 1 Introduction

## 1.1 Context of the IAA Draft Decision

- 1.1.1 daa outlines its position regarding the complaint received by the Irish Aviation Authority (“IAA”) pursuant to the provisions in section 45(b) of the Aviation Regulation Act 2001 in relation to the setting of airport charges and incentives. It is regrettable that a complaint has been submitted and daa would like to highlight the precedent this will likely create. daa believe that the complaint is frivolous, fictitious and contains many inaccuracies, false claims and metrics that suit a preferred agenda. daa urge the IAA to reconsider its position by giving due consideration to the material provided in the following sections.
- 1.1.2 The IAA’s Draft Decision raises serious questions as to what their objective is as a Supervisory Authority. The IAA’s assessment of the complaint in relation to environmental issues are inappropriate and counterproductive. Pertinently, as a state authority, the IAA contradict the ‘Green New Deal’<sup>5</sup> in the programme for Government and wider national policy objectives such as the Climate Action Plan<sup>6</sup> (“CAP”). The Green New Deal set’s out a National Clean Air Strategy, which aims to develop a regional approach to air quality (and noise enforcement) as well as a multi-agency approach. In relation to Transport, the Green New Deal commits to addressing climate impact and air quality as key issues.
- 1.1.3 daa have demonstrated a proactive approach in relation to the environment to ensure a sustainable future for Dublin Airport as a major European hub. Charges and incentives were developed and implemented to address the environmental footprint of Dublin Airport such as noise, carbon emissions and air quality. Charges are now levied on Noise and Nitrogen Oxide (NOx) and an incentive to reward the use of aircraft with lower carbon (CO<sub>2</sub>) emissions through the Low Emissions Aircraft Discount (LEAD). The IAA as a state agency, have chosen not to adopt the multi-agency response to climate as set out in the programme for Government. The IAA have inappropriately assessed NOx charges and carbon incentives as not relevant, which again, contradicts the programme for Governments objective of addressing air quality and climate impact in relation to transport and CAP.

---

<sup>5</sup> [Programme for Government: Our Shared Future](#), page 31

<sup>6</sup> [Climate Action Plan](#)

## 1.2 daa Compliance Actions

- 1.2.1 The Ryanair complaint issued to the IAA, claims that daa's consultation process is in breach of Directive 2009/12/EC and the 2011 Regulations while concerns are raised over conduct of the consultation and abuse of a monopoly position. daa would like to clarify that its consultations are fully compliant with all articles of the Directive 2009/12/EC ("ACD") as outlined in Table 1 In relation to Ryanair's comments on abuse of a monopoly position, daa is subject to stringent regulatory oversight through the price cap to mitigate any abusive practices in relation to the setting of airport charges.
- 1.2.2 daa would also like to highlight that Ryanair has repeatedly failed to give any form of passenger forecast to Dublin Airport as required under Article 7 of the ACD. The aim of this is to enable an accurate budget of aeronautical revenues ensuring an over recovery position does not occur. The level of airport user non-compliance with this provision with Directive 2009/12/EC, remains an ongoing issue which the IAA failed to consider or address as part of the Draft Decision of this complaint. daa request that the IAA's Final Decision factors that the Ryanair did not submit information on:
- (a) Forecasts as regard traffic*
  - (b) Forecasts as to the composition and envisaged use of their fleet*
  - (c) Their development projects at the airport; and*
  - (d) Their requirements at the airport.*
- 1.2.3 There is clear contradiction in the Transparency grounds of the complaint when Ryanair have blatantly disregarded Article 7 of the ACD by not providing adequate passenger forecasts or adequately engaging in their requirements at Dublin Airport through the charges consultation process.
- 1.2.4 In addition to the regulatory non-compliance of the complainant, this also demonstrates shortcomings in the IAA procedure, whereby they failed to engage in adequate information gathering from daa prior to issuing the Draft Decision.

Table 1. Directive 2009/12/EC checklist

Article	Article Title	Paragraph	Action	Completed
0	Introduction	1	Costs Recovered efficiently	✓
		7	Incentives within EU law	✓
		9	ICAO principles applied (Cost / non-disc.)	✓
		10	Charges are levied to recover cost	✓
		11	Consultation held, non-discriminatory charges	✓
			Airport to provide cost basis of charges, productivity of Capital Projects. User to provide Pax forecast / development projects / demands/suggestions	✓
		13		✓
		14	Inform user of infrastructure projects	✓
		15	Differentiated service level provided to User	✓
		16	SLA between User and Airport.	✓
2	Definitions	4	Charges for landing, take-off, lighting, parking, processing PAX/freight.	✓
3	Non-Discrimination		Modulation should be Relevant, Subjective & Transparent.	✓
6	Consultation and remedy	1	Consultation held annually	✓
		2	Proposals and decision issued 4 & 2 months respectively prior to taking effect	✓
		3	User can seek ISA intervention in the event of disagreement	-
		4	If ISA intervene, changes not to be made until ISA makes interim decision within 4 weeks	-
		5	If ISA determines/approves charges, User cannot request ISA intervention.	-
7	Transparency	1	At each consultation the airport should provide airport users with the following information on components forming a basis for charges	
		a	Services & Infrastructure	✓
		b	Methodology	✓
		c	Cost structure	✓
		d	Revenue of each charge & cost of service	✓
		e	Public financing of service / facility	✓
		f	Pax forecast	✓
		g	Use of infrastructure / equipment	✓
		h	Capacity impact of investments	✓
			Users to submit forecast, Fleet composition, development projects, requirements at airport before consultation	✗
		2		
		3	Treat info provided to users as confidential.	✓
8	New infrastructure		Consult prior to infrastructure projects.	✓
9	Quality standards	1	Negotiation of SLA with User allowed to determine service level entitlement.	
		2		✓
10	Differentiation of services	1	Differentiation of charges allowed for varied QoS with transparent justification	✓
		2	When demand > allowed capacity, relevance, transparency and non-disc. to be applied on access.	✓
11	Independent Supervisory Authority	7	ISA to issue final decision 4 months prior to effectiveness when intervention is requested by User	-
		8	The authority should publish an annual report concerning its activities.	-

***Questions for the IAA:***

1. Other ISAs have a series of 'steps' that are taken before a formal complaint can be submitted such as meetings, advisement of dialogue between the airport authority and airport user and to encourage the airport user to gather further information. Were any of these steps taken with Ryanair? If not, why?
2. The IAA requested daa to provide detailed aeronautical revenue, which daa provided. Was this used? And if so, how did this influence the IAA's Draft Decision?
3. In its assessment, why have the IAA not assessed whether there was an actual impact on the consumer or competition which the Regulations are there to protect?
4. Why was there no Formal Notice of Investigation issued as described in the 2018 Thessaloniki Forum paper (see footnote 4) to which the IAA have adopted their views from?
5. It appears only the view of Ryanair was considered, why were other users not consulted?

## 2 Legislative and Policy Context

### 2.1 Regulatory Model

- 2.1.1 daa questions the need to provide granular cost-related evidence for each aspect of the charge's menu. The standards set out by the IAA in the Draft Decision display an excessive and damaging regulatory approach. Dublin Airport are already subject to one of the most stringent regulatory regimes in Europe with a price cap based on a single till model. Up to this point, it has been broadly accepted that compliance with this annual price cap is sufficient evidence of the cost-relatedness of the various charges. In fact, in paragraph 5.11 of the Draft Decision, the IAA makes this very point regarding cost-relatedness in the case of LEAD;

*"We note that, given that the annual price cap set by the IAA will ensure overall cost-relatedness regardless of whether or not such a scheme is in place.....".*

- 2.1.2 This logic should, and historically has, been applied to all airport charges levied at Dublin Airport. There are a wide range of outcomes, that are elaborated in section 3, that are not considered in the tests applied by the IAA, such as higher commercial revenues in certain markets subsidising aeronautical charges. Application of a strict cost-relatedness test to individual charges such as the passenger and runway charges is crude and does not account for the wide range of outcomes when considering a single till model.

### 2.2 Policy Consideration

- 2.2.1 Section 4 of the 2018 Thessaloniki Forum paper 'Non-Discrimination of the Airport Charges Directive'<sup>7</sup>, recommends how an ISA should interpret the obligations for criteria to be Relevant, Objective and Transparent. daa believes that these recommendations have been given too much weight in the Draft Decision and have been wrongly applied without regard to the legislative intent of the Regulations and the regulatory context at Dublin Airport (i.e., the single till model and high level of scrutiny on cost allowances approved by the IAA).
- 2.2.2 Furthermore, Section 5 of the same Thessaloniki Forum details an ex-post process that an ISA could consider adopting. The complaint process and Draft Decision of the IAA has not followed the best practices outlined in the Thessaloniki Forum. There was no published Notice of Investigation, no timeline provided for the investigation and a lack of impartial information gathering prior to the issuance of the Draft Decision. This calls into question the validity of the assumptions used in the Draft Decision.

### 2.3 Legal Framework

- 2.3.1 Users are protected from any risk of unfair airport charges at Dublin Airport by three regulatory regimes, which Dublin Airport incurs significant costs in complying with, namely; (i) economic regulation (price caps) under national legislation, the Aviation Regulation Act 2001 (ii) competition laws, including EU laws against discrimination under the Competition Act 2002, and (iii) general EU law principles prescribed by the Airport Charges Regulations 2011 ("the Regulations"). As a result, the Regulations

---

<sup>7</sup> [Thessaloniki Forum: Non-Discrimination under the Airport Charges Directive](#)

cannot be interpreted in isolation and rather due regard must be given to their context e.g.:

- How economic regulation delivers a far higher level of intervention than that required by the Regulations. As indicated in the Department's National Policy Statement on Airport Charges, the least stringent of the above three regimes is the Regulations and they merely impose an EU-wide "baseline" (which was intended to effect change at other airports not subject to economic regulation). Accordingly, the objective of the Regulations can be achieved by construing them narrowly rather than by stretching them and creating excess regulation.
- How the well-developed EU competition law definition of non-discrimination and the Regulations' main objective to enhance competition dictates a particular interpretation of the Regulations. Accordingly, the Regulations must be interpreted as only prohibiting discrimination which may distort competition.

2.3.2 daa are concerned that the Draft Decision disregards the above context, leading the IAA to wrongly interpret; (i) its role under the Regulations to be akin to that of an economic regulator and to involve in-depth interrogation and calculations, and (ii) the Regulations' non-discrimination principles (e.g., 'objective', 'relevant', 'transparent') as being more restrictive than the equivalent EU competition principles. This results in the IAA imposing an incorrect standard, which prohibits anything for which there is a less-than-scientific basis and creates a new industry in consulting and producing scientific dossiers to justify common sense pricing. It is particularly disappointing that what we see as wrong interpretations of the law; (i) have only been communicated by the IAA now, 13 years after the Regulations came into effect, and (ii) have been chosen despite conflicting with (iii) the interpretation of the CAA (see paragraph 2.4.1) and (iv) the application of incentives which fall foul of the IAA's EU law interpretations are used in other published incentive scheme at Dublin Airport (which in some cases were funded by the Irish Government), as well as across other EU Member States.

2.3.3 Dublin Airport is entitled to legal certainty, and the recent introduction of a low-cost statutory complaint's mechanism ought not give new meaning and consequences to Regulations which Ireland, the IAA and Dublin Airport have been bound by for the last 13 years.

2.3.4 In addition to having adverse effects on daa, we see the IAA's wrong interpretations of the Regulations' as liable to have unintended consequences for the wider public, including (i) disproportionate additional compliance costs which will reduce value for users and be ultimately passed onto passengers, and (ii) stakeholders frustration at effective barriers to Dublin Airport (a) implementing price differences which further national policies and/or commercial strategies, or (b) being able to tell airlines that charges are certain/final.

2.3.5 Dublin Airport has consistently demonstrated optimal engagement and consultation with Airport Users in relation to the setting and application of its aeronautical charges. Dublin Airport is at means to state that our charging application for all users discharges and often exceeds our regulatory and legislative obligations pertaining to transparency, relevance and objectivity. The current Airport Charges process fully reflects the 2017 CAR "Review of Consultation and Transparency under the Airport Charges Directive at

Dublin Airport”<sup>8</sup>. The IAA has failed to apply a proportionate view in their Draft Decision, failing to acknowledge nor understand our statutory commercial mandate.

- 2.3.6 It is our concern that the current provisions of legislation in regard to the Airport Charges Directive are being manipulated by an airport user to unduly influence the structure of airport charges at the expense of curtailing the airport’s strategic objectives.
- 2.3.7 The key legal terms which have been interpreted in the Draft Decision are “relevant”, “objective” and “transparent” and we believe that they have been interpreted wrongly, for the reasons set out below.
- 2.3.8 daa acknowledge the scope for debate as to whether charges are subject to either (i) Regulation 6(1)(d) on the basis that they are “modulated” or (ii) Regulation 11(2)(a) on the basis that they are “differentiated”. We see this potential debate as unnecessary for present purposes. The only difference between the two Regulations is that the former contains a “relevant” requirement which the latter lacks. Thus, on a conservative basis, we will assume in this section that the longer list of obligations under Regulation 6(1)(d) applies and we will explain why all charges in question should be found to be compliant with that Regulation.
- 2.3.9 The first question is what must be “relevant”, “objective” and “transparent”? We are of the view that the chosen criterion (i.e., the user group definition chosen by Dublin Airport, according to which it determines entitlement to a charge rate) is what we must be in compliance with. We say this because (i) it follows from a literal interpretation of the word in bold below, and (ii) there is nothing in the text of the Regulation to support the IAA’s alternative interpretation that the magnitude of the modulation or the methodology by which it is done is instead what must be compliant:

*[Dublin Airport] shall, where it modulates charges for issues of public and general interest (including environmental issues), do so using relevant, objective and transparent **criteria**” (Regulation 6(1)(d)).*

The next question is what is the meaning of “relevant”, “objective” and “transparent”?

### **Relevant**

- 2.3.10 As regards “relevant”, daa agrees with the below-quoted first part of the Thessaloniki Forum’s working definition, which is relied on in the Draft Decision, where the key word is “applicable” as highlighted below:

*“The factors set out [i.e., the criteria] are applicable to the circumstances in question”.*

- 2.3.11 In our view, the correct interpretation of “relevant” (and “applicable” in the above) is a similar standard to the established legal concept of unreasonableness or irrationality. The Draft Decision is wrong in suggesting that the standard is much higher and is not met where, for example, (i) the IAA thinks there may be better alternatives (e.g., where the IAA states “*We have some doubts over whether it is an appropriate/optimal way to achieve the referenced objectives*”), (ii) the IAA has doubt as to effectiveness (e.g., where the IAA questions the effect of the LEAD and NOx criteria on behaviour and outcomes).

---

<sup>8</sup> CAR, Review of Consultation and Transparency under the Airport Charges Directive, CP7/2017.

### Objective

- 2.3.12 As regards “objective”, daa agrees with the part of the Thessaloniki Forum’s working definition which states that criteria must be “repeatable”. In our view, the correct interpretation of “objective” is the most obvious and simple one, namely that it prohibits criteria which allow an airport to exercise discretion and therefore requires all criteria to be measurable so that uniform and fair application to all users is ensured.
- 2.3.13 The Draft Decision is wrong in suggesting that the “objective” requirement equates to a very different and more probing test as to whether *“the magnitude of the discount is proportionate”*. As noted above, the Regulations only regulate criteria (not discount magnitude calculations) and the question of whether a discount is proportionate / cost-oriented is very different to the actual question of whether the criteria for grant of a discount is “objective”.

### Transparent

- 2.3.14 As regards “transparent”, daa agrees with the below-quoted first part of the Thessaloniki Forum’s working definition:

*“The reasons and analysis underlying the charging strategy and the level of charges are clear to all so that users can establish if there is a justifiable complaint”.*

- 2.3.15 In our view, the correct interpretation of “transparent” is the level of disclosure which (i) is defined in detail by the long list of mandatory disclosures under Regulation 6(2), which includes “(b) the methodology used for setting charges” and “(c) the overall cost structure”, and (ii) gives users enough information to form a view on compliance.
- 2.3.16 The Draft Decision is wrong in suggesting that “transparent” requires disclosure of many levels of detail beneath the overall methodology and cost structure. Given that Dublin Airport users obtain a huge amount of information from the economic regulation process it is clear that Ryanair had enough information to identify a non-discrimination complaint, we do not see any justification for the IAA’s approach.

## 2.4 CAA Interpretation

- 2.4.1 The UK aviation regulator, the CAA, helpfully set out its interpretation of the Regulations' relevant requirements<sup>9</sup> ("relevant", "objective", "transparent") prior to them coming into effect in the UK in 2010. The CAA's interpretation aligns with daa's and the below quotes speak for themselves and add weight to daa's views as set out above.
- 2.4.2 We regret that the IAA is considering an opposite approach in its Draft Decision. For ease of reference, see the following relevant Quotes from the CAA:

*"The issue of discrimination or differentiation only becomes a concern if the airport is embarking on a form of conduct that is deemed to be **unreasonable** within the scheme of the ACD. This typically means the airport has taken a decision to discriminate between users or differentiate charges without reference to objective and transparent **criteria**. The concern for the CAA as a regulator is the risk that this type of behaviour **could harm effective competition in the market**."*

*"The CAA's current thinking is that the cross-reference in Article 3 to Community law, along with the cross-reference in recital (18) that "This Directive should be without prejudice to the Treaty, in particular Articles 81 to 89 [now Articles 101 to 109] thereof [the competition regime]", give a clear steer that the non-discrimination provisions of the ACD should be implemented in line with EU competition law... As such, this aspect of the ACD has not introduced any new legal requirements in the UK other than introducing transparency and consultation obligations that make it easier for airport users to understand.... **restrict regulatory intervention to those situations where there is a risk to effective competition** as set out in the relevant case law and guidance on abuse of a dominant position."*

*"The key test is whether the differentiation amounts to **unreasonable discrimination, which in turn rests on upon an assessment of the market power of the airport in the relevant market and the effects of competition on end users** ..The CAA considers that no additional measures are required in the UK to implement this aspect of the ACD."*

*"The CAA also notes that the ACD has the potential to create a burgeoning industry of consultation at airports in the UK. The CAA does not believe the ACD has been introduced to require airports to provide detailed information regarding their respective businesses, and **consultation should not be viewed as a means for users to demand growing amounts of detail from airports on the commercial operation of their businesses**."*

*"the CAA accepts that airports or airlines may provide high-level summary information under a number of the transparency headings... Indeed, to require airports to provide too much information could undermine the normal competitive tensions and negotiation that drive efficient outcomes in the market."*

*"For each separately identified charge, the CAA would expect the airport to set out **a succinct summary of the overall methodology for setting the charge, rather than a detailed numerical explanation**. For example, the methodology for a particular charge may be: • cost recovery; • cost recovery plus contribution to overheads; • incentive*

---

<sup>9</sup> CAA, [Implementing the Airport Charges Directive in the UK, CAA Emerging Thinking](#), December 2010.

*pricing to encourage or discourage use of a particular facility or service; • priced to the demand curve, i.e. what the airport considers the market will bear.”*

2.4.3 In addition to the references in section 2.2, The IAA have failed to demonstrate regulatory best practice in the conduct of this investigation. daa would like to explicitly call out the Guidance on the application of the CAA’s powers under the Airport Charges Regulations, 2011<sup>10</sup>. This sets out a robust complaint investigation framework, whereby the ISA conduct early-stage analysis and exercise discretion on whether a complaint should be investigated.

2.4.4 Key differentials in procedures being:

- a) The CAA publish a Formal Notice of investigation (as recommended by the Thessaloniki Forum).
- b) The CAA encourage ongoing dialogue between the airport and the aggrieved party.
- c) The CAA can also act a facilitator / moderator.
- d) The CAA are unlikely to issue a Direction if there has been no detrimental effect on the consumer or competition.

2.4.5 The procedural variance followed by the IAA call into the question the robustness of the analysis, whereby the IAA haven't assessed what the financial impact is on Ryanair or on competition relative to the complaint grounds. daa would query the validity of an IAA Direction prior to the completion of an adequate competition and consumer impact assessment.

---

<sup>10</sup> CAA, [Guidance on the application of the CAA’s powers under the Airport Charges Regulations 2011, CAP 1343](#), 2015.

## 2.5 Cost Reflectiveness

- 2.5.1 One of the key guiding principles set out in the ACD is that airport charges should be cost-reflective. However, this principle is not defined in any detail, and it is open to interpretation. Cost-reflectiveness in the context of airport charges is a very nuanced topic and there are several important considerations.
- 2.5.2 **Economic regulation.** Whereas the ACD gives relatively high-level guiding principles for airports, it is worth remembering that daa is already subject to economic regulation, which sets the maximum allowable charge per passenger that daa is allowed to charge to airlines. At a high level, the purpose of this regulation is to ensure that daa's airport charges are cost-reflective in aggregate. The IAA's Final Decisions on airport charges tend to be based on multiple years of consultation and hundreds of pages of documentation. Therefore, if the spirit of ACD is to protect airlines from the risk of excessive pricing, then we note that daa's economic regulation is already in place to help achieve this, and it is by far the most extensive piece of regulation.
- 2.5.3 **Cost allocation.** In principle, to test whether airport charges are cost-reflective, a detailed cost allocation exercise is needed, where all of the airport's costs are allocated to individual charges:
- Directly attributable costs: For some cost items, it may be clear that the cost is directly driven by only one specific charge. In which case, it seems uncontroversial to allocate the cost in full to the specific charge in question.
  - Common costs: However, many costs cannot be attributed to only one airport charge, as they are effectively shared between many different charges. For instance, many in-terminal services are used to serve both short haul and long-haul passengers. Similarly, central functions such as Finance, HR, and Exec costs can also be viewed as common across all charges.
  - When costs are shared across multiple uses, there is no single right answer as to how those costs should be allocated between those uses. Economic theory can propose a range of different allocation options and provide reasonable upper and lower bounds on allocations. The table below provides a high-level overview of different options.
  - In principle, a service should recover at least its incremental cost but no more than its standalone cost, otherwise there would be concerns that one service may be cross-subsidising another.
  - The key point is that there is not just one single cost estimate underlying a particular charge, there is a range, and depending on how common costs are allocated the range could be very wide range. This point is recognised by the UK CAA, which notes "In theory, an airport could set its prices for a product or service to an airline anywhere in a range from the incremental cost of providing the product (without allocating any of its fixed costs to the product) to the standalone cost of providing the product (that is allocating all of its fixed costs to the product)."

Table 2. Cost Reflectiveness

Approach	Description	Example
<b>Incremental cost</b>	Identify the costs that would be avoided if the activity in question was removed. Allocate that cost to the activity	If daa no longer served transfer passengers then to what extent would it save on common costs – e.g. HR, IT, Exec costs? Allocate that amount to transfer passengers.
<b>Standalone cost</b>	(The flip side of the above) Identify the costs that are needed to carry out only the activity in question, assuming no other services. Allocate that cost to the activity	If daa only served transfer passengers what would its costs be? Allocate that amount to transfer passengers.
<b>Input-based</b>	Allocate common costs based on inputs	Allocate common costs between the runway and passenger charges based on say hours of Exec time, floor space, etc.
<b>Output-based</b>	Allocate common costs based on outputs	Allocate common costs between long haul and short haul based on the number of short haul or long haul movements or passengers.
<b>Value-based</b>	Allocate common costs based on the value generated by the activity	Quantify the 'value' of each service – e.g. ticket prices for short haul v ticket prices for long haul and allocate on that basis.
<b>Equi-proportional markup (EPMU)</b>	Allocate common costs using a constant markup on direct costs	Mark up common costs in proportion to directly attributable costs.
<b>Competitive considerations</b>	Set prices for one service based on competitive pressures and recover all other common costs from other services	E.g. set one charge based on benchmarking, then residual costs would be recovered from other charges.
<b>Judgement / general and public interest</b>	Allocate common costs on the basis of general or public interest	E.g. increase the price of movement charges to encourage efficient use of runway services, etc..

- 2.5.4 Therefore, a charge can be considered cost reflective if it lies within this wide range, and in principle non-cost considerations (including general and public interests, such as demand or the environment) could be used to determine where to set the charge within this range. The UK CAA also goes on to note that *“One particular form of cost allocation is Ramsey pricing, in which fixed costs are allocated according to the elasticity of demand for the product... In other words costs are allocated to products (or users) in relationship to their willingness to pay for them. This form of cost allocation would lead to the highest level of activity at the airport, so it is often seen to be an efficient form of allocation.”* We note that Ramsey pricing allocates common costs based on demand rather than on cost drivers. This supports the idea of using non-cost considerations – such as demand or general and public interest to determine how to allocate common costs, knowing that the resulting cost allocation is likely to lie within the wide range of potential cost estimates anyway.
- Practical considerations: Much of this theoretical discussion on allocation assumes that airport costs be neatly broken down, split out between different services, different passenger types, and potentially spatially too (which is not always possible). Costs may be driven by a combination of different drivers and in non-linear ways. The UK CAA also notes that *“Finally, it is recognised that using cost modelling can only approximate the different costs that users impose on airport operators and, therefore, an exact correlation between costs and charges may not be necessary.”*
  - Individual charges: While airport charges tend to be unbundled, airlines do not buy individual airport services in isolation. They do not buy aircraft parking services only. They also require passenger handling services as well as landing and take-off services. Cost-reflectiveness is therefore arguably more meaningfully assessed at the ‘bundled’ level e.g. the total cost or the average cost per passenger or per movement for a given airline on a given route once all airport charges have been paid.
  - Commercial revenue: daa is regulated under a ‘single till’ approach. This means that any revenue that it generates from commercial revenue e.g. retail and car parking is effectively used to cross-subsidise airport charges. Therefore, strictly speaking, under a single till approach, aeronautical revenue in aggregate is actually lower than the cost of providing the underlying aeronautical services, with commercial revenue making up the shortfall. Therefore, when assessing the cost-reflectiveness of airport charges and allocating costs, how should we take into account that the traffic also generates retail revenue, cargo revenue, and a long list of other commercial revenue types? There is no single right answer, and the ACD is silent on this topic.
- 2.5.5 Taken together, these points highlight that cost allocation in the context of airport charges is a nuanced topic. Rigid guidelines around the cost-reflectiveness of individual airport charges, while well-intentioned, should not inadvertently be stifling airports from behaving commercially. This is especially the case when the airport is already subject to extensive economic regulation that ensures that charges are cost reflective in aggregate, and where the charges do not actually distort competition. Price discrimination and unbundling are powerful tools that can increase demand, lower costs, and incentive positive behaviour change, and should be actively encouraged.

***Questions for the IAA:***

6. Should there not be consistency in the legal application of the ACD obligations across ISAs?
7. Do the IAA expect daa to justify charges by illustrating cost allocation as directly correlated?
8. In its assessment, why have the IAA not assessed whether there was an actual impact on Ryanair (i.e. damages) or wider anti-competitive practices which the Regulations are there to protect?

### 3 Price Discrimination and Unbundling

#### 3.1 Introduction

- 3.1.1 Given the nature of the complaint and the fact that this is the first formal complaint under the new legislative provisions, daa believes there is merit in analysing the economics of price discrimination and unbundling. Price discrimination is a commercial pricing strategy whereby identical goods or services are sold at different prices to different consumers, to drive efficiency and behavioural change. In economic literature, there are three main types of price discrimination.

*Table 3. Types of Price Discrimination*

Type	Description	Example
First degree	Occurs when a seller charges each customer their maximum willingness to pay.	Auctions – e.g. when economy-class passengers bid in an auction for an upgrade to business class.
Second degree	Occurs when prices vary based on the number of units bought by the customer – akin to a volume discount – but not across customers: i.e. each customer pays the same amount for a given volume.	multipack items.
Third degree	Occurs when different customer groups / segments are charged different prices for the same good or service. The segmentation needs to be easily identifiable to avoid complication, including arbitrage. (This tends to be the focus of most of the economic literature directly relating to airports.)	Common ticket prices tend to be different for children, adults and seniors.

- 3.1.2 We note that these concepts are not new. They were first formally defined over 100 years ago in Pigou's 1920, "The Economics of Welfare", which also explored how they can lead to positive market outcomes.
- 3.1.3 In many markets, different customer groups may have very different requirements from the seller, and they may drive the seller's costs in different ways. 'Unbundling' as a pricing strategy recognises this. Rather than selling an identical 'one size fits all' service to all customers at the same price, unbundling involves the seller effectively breaking down the long list of services that they provide into individual components, and then charging customers based on the services that they use, and not charging for them for the services that they do not use. This enables the customer to pick and choose a bundle of services that better matches their demands and budget, rather than a 'one size fits all' option.

3.1.4 The distinction between price discrimination and unbundling can be obscured. At a high level:

- Price discrimination relates to charging different customers different amounts for the same underlying product or service.
- Unbundling relates to charging different customers different amounts for different products or services.

3.1.5 Therefore, unbundling is not price discrimination in the academic sense. It simply reflects customers buying different bundles of services from the seller, at appropriately set tariffs.

3.1.6 Price discrimination and unbundling are common in many well-functioning markets, and are particularly familiar to airlines, including Ryanair:

- Price discrimination: Airline ticket pricing strategies are a text book of third degree price discrimination, where passengers are sold tickets for the same flight for often very different prices, where the differentiating factor that segments passengers into different groups is when they buy their ticket.
- Unbundling: Airlines – especially LCCs – also engage heavily in unbundling. Whereas historically, network carriers tended to provide more of a ‘one size fits all’ bundled service, LCCs have been widely credited as stimulating a significant increase in demand for air travel through unbundling. Passengers can now often pick and choose whether to purchase priority boarding, a check-in bag, as well as decide whether they want to buy food and drink during the flight rather than being served a ‘complimentary’ meal as standard as part of a more traditional bundled service.

3.1.7 Price discrimination and unbundling are powerful pricing strategies that can strengthen competition between firms (including strengthening downstream competition if this is relevant given the structure of the market) and can ultimately boost consumer welfare through various channels.

## 3.2 Economic Theory

- 3.2.1 Charging different customers different amounts for essentially the same service, can improve economic efficiency. This does not mean, of course, that any price discrimination is justified. Therefore, the literature largely concerns itself with understanding when and how discrimination may, or may not, enhance economic welfare. The academic literature suggests that the following conditions need to hold in order for price discrimination to be welfare enhancing:
- The seller needs some degree of market power, firstly in order to be able to recover its fixed costs, and secondly to be able to set differential prices, noting that customers may have some outside options (including the option of not buying at all).
  - Economies of scale: The seller's cost structure is typified by high fixed costs and low variable costs, such that marginal costs are below average costs.
  - Output increases: For welfare to be enhanced, price discrimination needs to result in higher output. Otherwise, this would simply amount to giving a discount to some customers without increasing demand.
  - No congestion: The seller needs spare capacity such that an increase in demand can be accommodated.
- 3.2.2 For instance, in the example of airline price discrimination described above, in practice, passengers who are charged higher prices are effectively covering the marginal costs that they impose on the airline as well as making a contribution towards the airline's fixed costs, whereas passengers who are charged lower prices are (or should be) covering at least the marginal costs that they impose on the airline but making less of a contribution towards fixed costs. Despite appearing to earn potentially very large margins from some passengers, this pattern of pricing is still consistent with firms earning normal profits overall.
- 3.2.3 A similar dynamic also holds for unbundling. Some customers may not be prepared to pay for a bundled service but would be willing to pay for a different combination of unbundled services. But again, this is not actually price discrimination and relates instead to only charging customers for the bundle of services that they do use.
- 3.2.4 As noted, the potential benefits of price discrimination have been known for a long time and have been discussed at length by many academics and authorities. For instance:
- *"Where marginal costs are below average costs... discriminatory pricing arrangements are likely to be preferable to (that is, more efficient than) uniform prices... The more that price discrimination results in increased output or indeed opens up new markets, the more likely it is to have a beneficial impact on economic welfare"* UK Office for Fair Trade (OFT) 1999.
  - *"When marginal costs are close to zero, any positive price provides a firm with a contribution to fixed costs. There may be no uniform (i.e. non-discriminatory) price that will allow the firm to cover their fixed costs"* Spector et al 2005.
  - *"Price discrimination should be actively encouraged by regulators and policy makers"* Biggar 2012.
- 3.2.5 Price discrimination and unbundling help to intensify competition. A firm can gain an edge relative to its competitors if price discrimination and unbundling can enable it to

serve more demand (either brand new demand that was previously under-served or existing demand that has switched away from rival firms), which in turn lowers average costs which may be to the benefit of all the firm's customers. Rival firms would need to follow suit and also start to offer unbundled services and engage in price discrimination. For instance, in the airline sector, we increasingly see network carriers tailoring their services and offering a more 'LCC-like' product, such as Iberia introducing its Iberia Express brand, and KLM introducing its KLM Cityhopper brand. We discuss below how airports also increasingly engage in unbundling and price discrimination.

### 3.2.6 In the academic literature, market structure is also important:

- The examples above tend to focus on a simple market structure where firms compete with each other for end customers in the retail market.
- However, price discrimination and unbundling may also be used by firms that act as a wholesale provider, providing an input to downstream firms that compete with each other for end customers. This better describes the dynamics in the airport sector, where airports provide services to airlines, that in turn compete for passengers. We discuss this dynamic in more detail below.

## 3.3 Precedent from competition authorities

3.3.1 Competition authorities actively monitor firms' pricing strategies to ensure that consumer welfare does not suffer as a result. In general, the European Commission tends to only be concerned with cases of price discrimination where it can be demonstrated that the supplier in question has significant market power. The precedent and case law in this space is continually evolving, especially as technology helps to open up more opportunities for price discrimination, and new markets – including in the digital space – with new and novel market structures and nuanced competitive dynamics require authorities to continually develop their thinking.

3.3.2 European case law tends to distinguish between two different forms of price discrimination from an anti-trust perspective:

- Primary line – price discrimination which results in a vertically integrated dominant firm charging different prices to its own customers, in order to foreclose the dominant company's upstream competitors; and
- Secondary line – distortion of downstream competition between the customers of a firm, with injury to at least one. This discrimination occurs when the dominant firm is not active in the market as a competitor (i.e. not vertically integrated). This is more relevant in the context of airports, as vertical integration in airports (i.e. where the airport operator also has its own airline operating at the airport) tends to be very rare – especially in Europe.

3.3.3 In recent years, the European Commission has moved towards a so-called "effects based" approach to price discrimination. This means that price discrimination alone is not considered an abuse. Instead, it is an abuse when the discrimination actually distorts competition between the competing downstream parties. For instance:

- MEO, a Portuguese Pay-TV operator, argued that GDA (a non-profit collecting society managing the rights of artists and performers on an exclusive basis) had charged higher prices to MEO than to its competitor, in breach of Article 102(c). In this case, the court confirmed that price discrimination is not in itself an abuse of dominance in breach of EU competition case law. It noted: "*Discriminatory pricing can only be*

*an abuse of a dominant position under Article 102(c) TFEU if that conduct causes a 'competitive disadvantage' to one of the dominant company's trading partners. In the case of price discrimination between customers, this requires that such conduct tends to distort competition between those trading partners in the downstream market".<sup>11</sup>*

- In Post Danmark I & II, the Danish postal service operator was accused of having abused its dominant position for the distribution of unaddressed mail through price discrimination by having charged new customers *"rates different from those it charged its own pre-existing customers without being able to justify those significant differences in its rate and rebate conditions by considerations relating to its costs"*. Ultimately, in both cases, the EC found that price discrimination is abusive only to the extent that it actually distorts competition.

3.3.4 While price discrimination may result in some customer groups paying more or less than another group, if there is only competition within customer groups and not between customer groups, then there is no distortion.

### 3.4 Price discrimination in the context of airport charges

3.4.1 In the case of airports, the structure of the market means that price discrimination and unbundling are effective pricing strategies:

- Airports tend to have high fixed costs and low variable costs, they also benefit from economies of scale – at least in the short-to-medium term, such that marginal costs are lower than average costs.
- Airports generally have at least some degree of market power, with physical location the most obvious differentiator. This differentiation helps them to recover their fixed costs and to set differential prices where buyers (airlines) may have some outside options.
- Airports also serve many different customers (airlines) often with very different requirements that drive airport costs in different ways.
  - They may serve LCCs operating short haul flights using narrow-bodied aircraft with very short turnaround times. LCCs tend to not carry transfer passengers and they often do require contact stands. They generally use the airport less intensively.
  - They may also serve network carriers operating a mix of short haul and long haul flights, using narrow- and wide-bodied aircraft. Given the hub and spoke model, these network carriers may carry large volumes of transfer passengers (placing a different set of costs on the airport) and have longer turnaround times with long haul flights effectively 'waiting' for waves of short haul flights to bring transfer traffic.

---

<sup>11</sup> MEO case judgement C-525/16

- Airports serve airlines that compete in distinct downstream markets. A LCC operating a short haul flight is not generally viewed as being in competition with a network carrier operating a long haul flight. This is because competition authorities tend to define the relevant market based on Origin and Destination city pairs. Similarly, even where LCCs compete head-to-head with a network carrier on a particular route, strictly speaking they are only in competition for point to point passengers on that route. For instance, a transfer passenger wishing to fly from New York to Dublin and then on to Madrid is in a separate market to a point to point passenger flying from Dublin to Madrid only.

#### 3.4.2 Given these dynamics, unbundling and price discrimination are particularly common in the airport sector:

- Unbundling: Rather than offering a 'one size fits all' service to all airlines at a flat price per passenger, airports tend to unbundle their charges. We typically see airports levy a landing charge, an aircraft parking charge, and a passenger charge. And they often make further distinctions within these charge categories. For instance, passenger charges may be broken down into a number of individual 'in terminal' services, including baggage handling, security, etc. Similarly, airports tend to charge airlines different amounts whether they require use of an airbridge, or whether they use a contact stand versus a remote stand. As discussed, this unbundling helps airlines to pick and choose the bundle of services that best suit their needs, and not pay for services or infrastructure that they do not use. Any associated cost savings can be passed through to passengers in the form of lower ticket prices, boosting demand and intensifying competition.
- As noted, unbundling also promotes user pays principles which can be a powerful tool for airports to influence airline behaviour. For instance, if the airport were to have a shortage of check-in desks, it could decide to invest in extra infrastructure and build its way out of the problem. However, alternatively, it could unbundle the passenger charge, and introduce a brand new unbundled charge for check-in desks. This could involve charging airlines based on how many desks they use and for how long. When faced with a price, this would encourage airlines to rethink how they use the infrastructure, knowing that if they use them less intensively, they can pay lower charges. As a result, simply charging for a service may help lower demand for that service and free up extra capacity, avoiding the need to invest in extra infrastructure.
- When charges are unbundled there tends to be winners and losers: who will pay less under the new charging structure relative to the previous charging structure? And who will pay more? Clearly, individual airlines have their own self-interests when it comes to debates around how to structure and set the level of airport charges. But these need to be interpreted with caution. For instance, LCCs with shorter aircraft turnaround times and higher load factors can reduce the share of airport costs they pay for (for a given volume of traffic) if airport charges are slanted towards movement charges and parking charges. On the other hand, network carriers, whose business model makes it harder to achieve LCC load factors or turnaround times, can reduce the share of total costs they have to pay for if the proportion of passenger-

related charges is higher. These are not necessarily constructive debates over the charging structure, but rather they represent self-interest.

#### 3.4.3 Price discrimination:

- Airports engage in second degree price discrimination. For instance, airports often have volume incentives, whereby airlines receive a rebate if they carry a certain volume of passengers. An example of this would be the Traffic Recovery Support Scheme (TRSS) which Dublin Airport introduced post pandemic. Such incentives are open to all airlines operating at the airport. And by targeting an increase in demand, leading to greater utilisation of airport infrastructure, they also help to lower average costs which may benefit all airlines in the medium term.
- Airports engage in third degree price discrimination. For instance, airports often offer new route incentives, e.g. where charges are lower on brand new routes. In this instance, the differentiating factor that segments the different customer groups is whether the route is new or not. These incentives are also open to all airlines operating at the airport. And similarly, by targeting an increase in demand (stimulating brand new demand for a new flight), they help to lower average cost in the medium term, potentially benefitting all airlines at the airport.

3.4.4 When new charges are introduced, either through price discrimination or through unbundling, there is a valid question around how the level of the charge is set. While ‘cost-reflectiveness’ is often discussed, it is not necessarily the only consideration. For instance, the IAA notes *“To the extent that Ryanair is suggesting that cost-relatedness is the only permissible basis for differentiated/modulated charges under the 2011 Regulations, we do not agree with this position.”* It is important to note that the cost-reflectiveness in the context of airport charges is a very nuanced topic. In principle, for a given charge, when estimating the underlying costs, there is not just one single cost estimate. There will be a range of credible cost estimates, ranging from the short run marginal cost of providing the service to the long run standalone cost. This is because when costs are shared between different services there is no single right answer as to how those costs are allocated between the different services.

3.4.5 The IAA must consider the precedent setting impacts of this investigation, whereby any incentives, even when supported by airlines, will be considered impossible to introduce due to the burden of requirements. Should the IAA not support the application of charging modulation they should be explicit in this regard, so that all users have a comprehensive understanding.

3.4.6 Using assumptions that airport costs can be neatly broken down, split out between different services, different passenger types, and potentially spatially too – is not always possible. It is also worth remembering that while airport charges are unbundled, airlines do not buy individual airport services in isolation.

3.4.7 Airlines do not buy aircraft parking services only. They also require passenger handling services as well as the landing and take-off services. Therefore, cost-reflectiveness can arguably be assessed at the ‘bundled’ level – e.g. the average cost paid per passenger for a given airline on a given route once all airport charges have been paid.

### 3.5 Key theoretical considerations

- 3.5.1 Economic theory has long told us that price discrimination and unbundling can help deliver positive market outcomes. These pricing strategies are common in many different markets, including airports – and they are very familiar to airlines in particular – and are often actively encouraged by authorities.
- 3.5.2 Competition authorities tend to only be concerned with price discrimination where the seller in question has significant market power, and where it can be shown that the price discrimination actually distorts competition. While price discrimination may result in some customer groups paying more or less than another group, if there is only competition within customer groups and not between customer groups, then there is no distortion.
- 3.5.3 When airlines complain about airport charges on the grounds that they are ‘discriminatory’, it is worth taking the following points into account:
- Is the pricing strategy ‘price discrimination’ or is it actually ‘unbundling’? Unbundling (which is very common in airport charging) is not a form of price discrimination. It is simply an effort to try to charge customers for the services that they do use, and not charge them for the services that they do not use. If the complaint is about unbundling, it is worth considering the self-interest of the complaining airline. We note that airlines also routinely engage in unbundling.
  - Does the price discrimination actually distort competition? If there is no competition between the different segmented customer groups, then there is no distortion. For instance, if long haul landing charges were increased and short haul landing charges were decreased, all airlines operating on short haul routes face the same price. They are not in competition with airlines on long haul routes, which are separate markets.
  - Cost-reflectiveness is a nuanced topic in airport charges. In practice, there is likely a very wide range of cost estimates for a given airport charge, and any charge set within this very wide range can be considered cost-reflective. Cost-reflectiveness is just one consideration alongside many others.
- 3.5.4 Price discrimination and unbundling can be powerful tools to boost welfare. Regulation is meant to mimic what we would expect to see in competitive markets. The IAA therefore need to be mindful that charging rules (while well-intentioned) should not inadvertently be stifling Dublin Airport from behaving commercially.

#### ***Questions for the IAA:***

9. Does the IAA assess price discrimination as inherently discriminatory and anti-competitive in nature?
10. Do the IAA believe there should be one single universal charge applied to recover costs at Dublin Airport as opposed to the current practice of unbundling and pricing to achieve desired set of outcomes within reason, and a cost-related range?

## 4 Transfer Passenger Charge

### 4.1 Background

- 4.1.1 Dublin Airport levies a passenger service charge on each departing passenger according to the rates outlined in Table 4. Dublin Airport Passenger Service Charges

Table 4. Dublin Airport Passenger Service Charges

	Charge Basis	2023		2024	
		(€)		(€)	
Departing Passenger Charge	Period	Summer	Winter	Summer	Winter
	Contact Stand	12.3	8.75	12.9	9.2
	Remote Stand	5.95	3.15	6.25	3.3
	Satellite Stand	11.15	7.6	11.7	8
	Transfer Passengers	2.5	2	2.6	2.1

### 4.2 Ryanair Complaint

- 4.2.1 Ryanair claims that the transfer passenger charge is disproportionately low and results in locally departing passenger charge subsidizing this lower charge for transfer passengers.

### 4.3 IAA Draft Decision

- 4.3.1 In their Draft Decision, the IAA state that daa did not provide "*detail or analysis on the extent of the variation in the costs of servicing transfer as opposed to point-to-point passengers*", and that this constitutes a breach of the legislative 'transparent' requirement.
- 4.3.2 The IAA also state that daa did not "*demonstrate that the discount generated by the charging differentiation/modulation is proportionate*" and that this constitutes a breach of the legislative 'objective' requirement.
- 4.3.3 Both above criticisms are only valid to the extent that the Regulations impose rules regarding the magnitude and/or proportionality of any price variation. daa believes that no such rules are imposed and therefore the IAA's criticisms are invalid.

### 4.4 Demonstrated Action by daa

- 4.4.1 Following representations made by airport users during the 2023 airport charges consultation, daa recognised that the transfer charge required accelerated adjustment. The transfer charge was subsequently adjusted upwards by 25% compared to 15% for the departing passenger charge.
- 4.4.2 As outlined in Table 5. Transfer Passenger Charge 2022-2024 the transfer charge is now 30% higher than it was in 2022, compared to an average of 20% for the departing passenger charge. daa have considered Ryanair's views and have demonstrated action throughout the consultation processes.

Table 5. Transfer Passenger Charge 2022-2024

	Charge Basis	2022	2023	2024	▲
		(€)			
Departing Passenger Charge	Contact Stand	10.70	12.30	12.90	21%
	Remote Stand	5.20	5.95	6.25	20%
	Satellite Stand	9.70	11.15	11.70	21%
	Transfer Passengers	2.00	2.50	2.60	30%

## 4.5 Response to Complaint and Draft Decision

- 4.5.1 daa is of the view that transfer passengers are self-evidently an objective criterion, as required by the Regulations. Objectivity is satisfied because it is obvious that there is no potential for exercise of discretion in identifying transfer passengers. daa is also of the view that it has met the transparency requirement, and that it has made the required disclosures under Regulation 6 including disclosure of its methodology under Regulation 6(2).
- 4.5.2 daa questions the correctness of the interpretations used by the IAA to evaluate the objectivity and transparency of the transfer passenger charge. As noted above, daa believes that the Regulations only impose rules as to whether ‘transfer passenger’ is a permissible criterion or grouping for charging purposes (i.e., the IAA is only entitled to criticize the decision to charge differently for transfer passengers as not being relevant, objective and/or transparent, rather than the robustness of the calculation of the price difference). daa contests an interpretation that the requirement that a criterion be objective equates to a requirement that the magnitude of the discount afforded based on that criterion be proportionate and stable in the long-term.
- 4.5.3 The charge is set at to enhance Dublin’s competitiveness as a hub airport and to align with national policies and objectives including those laid out in the National Aviation Policy<sup>12</sup>. Dublin’s position as a hub in Europe is weak and the transfer charge is aimed to increase Dublin Airport’s competitiveness.
- 4.5.4 It is widely accepted by both airlines and regulators<sup>13</sup> across Europe that a transfer passengers’ contribution to infrastructure use and overall operating costs is considerably lower than that of a locally departing passenger. Table 6. Summer 2023 Transfer passengers at peer airports outlines the common practice of a differentiated transfer passenger charge. While the daa transfer charge differential is at the upper end of the scale, we see airports with substantially higher proportions of transfer share offering discounts of above 60%.

<sup>12</sup> [National Aviation Policy](#)

<sup>13</sup> [Investigation under Section 41 of the Airports Act 1986 of the structure of airport charges levied by Heathrow Airport Limited - CAA decision](#)

Table 6. Summer 2023 Transfer passengers at peer airports<sup>14</sup>

Airport	Passengers (millions)	Transfers (millions)	Transfer share	Transfer charge differentiation
FRA	38.8	18.6	48%	50%
AMS	40.8	14	34%	60%
CDG	44.9	13.5	30%	40%
HEL	10.3	3	30%	50%
MAD	39.6	10.5	26%	40%
VIE	19.6	4.4	22%	70%
OSL	16.9	3.7	22%	30%
LIS	22.5	4.7	21%	20%
LHR	52.4	10.6	20%	40%
BRU	14.8	2.4	16%	50%
CPH	17.8	2.9	16%	60%
FCO	26.3	3.6	14%	65%
ARN	14.8	1.9	13%	40%
BCN	33	3.8	11%	60%
DUB	22.7	1.2	5%	80%
BER	14.9	0.1	0%	30%

4.5.5 To further demonstrate the infrastructure use of transfer passengers and to justify the appropriately applied differentiated transfer passenger charge, Figure 1 summarises the airport processors used. daa note that Ryanair disingenuously inferred to this summary as elementary. Differentiation is a tool to achieve desired outcomes or behaviours as well as reflecting costs incurred. Moreover, daa believe Figure 1 to be a strong subjective example of why the transfer passenger charge should be differentiated.

<sup>14</sup> IATA AirportIS

Figure 1. Transfer Passenger Airport Processors

Airport Processors		Transfer Processors Used
Landside/Terminal	Off-Airport Roads	x
	On-Airport Roads	x
	Car Parking	x
	Kerbside	x
	Landside      Terminal Facilities: - Check-in - Security - Retail, Food & Beverage - Baggage system - Arrivals hall	x x x x x
Airside/Terminal	Retail, F&B	✓
	Baggage System	✓
	Transfer Facility	✓
	US Preclearance	x/✓
	Immigration	✓
	Gate	✓
Airside	Stands	✓
	Taxiway	✓
	Runway	✓

- 4.5.6 Dublin Airport questions the transparency, relevance and objectiveness framework used by the IAA to evaluate the transfer passenger charge. The use of this framework to evaluate a charge differentiation stems from an interpretation of the Airport Charges Directive.
- 4.5.7 Given the comprehensive single till regulatory regime that is in place, published charges are justified when fully compliant with the price cap set by the IAA. There should be autonomy to differentiate based on level of service. The emergence of ex-post as well as ex-ante regulation is damaging.
- 4.5.8 As acknowledged by the CAA, cost relatedness for each individual charge can be challenging for an airport operator with an exact correlation of cost and level of charge not deemed necessary. Instead, pricing to demand sensitivity (demand elastic) is more appropriate. This is the intention of the differentiated transfer charge at Dublin Airport.
- 4.5.9 Dublin Airport believes that the retention of the current Transfer Passenger charge rate is wholly justified and in compliance with our legal, regulatory and policy obligations. As detailed, the methodology for the current transfer charge is founded in policy obligation to price transfer passengers at a rate that encourages the use and growth of the Dublin hub. The rationale for retention is based on the evidence provided both during the 2024 airport charges consultation and the detail above.

***Questions for the IAA:***

11. Can the IAA provide a view on what level of differentiation is proportionate? If not, can the IAA provide guidance on how daa can determine an appropriate level of differentiation.
12. Are the IAA referring to fixed or variable costs in relation to transfer passenger allocation?
13. A level of differentiation for the transfer charge can only, reasonably, be subjectively determined (as opposed to a correlation of charge and direct cost allocation). Do the IAA believe this not to be the case and detail provided in Section 4 as not adequate?
14. If daa cannot provide a direct correlation of charge and cost allocation, do the IAA believe the transfer charge should be removed?
15. The IAA view on the transfer charge suggests that it is opposed to the level of differentiation, if any. In doing so, may infer a position that opposes the National Aviation Policy. If this is the case, have the IAA communicated this view to Department/Minister for Transport?

## 5 Runway Movement Charge

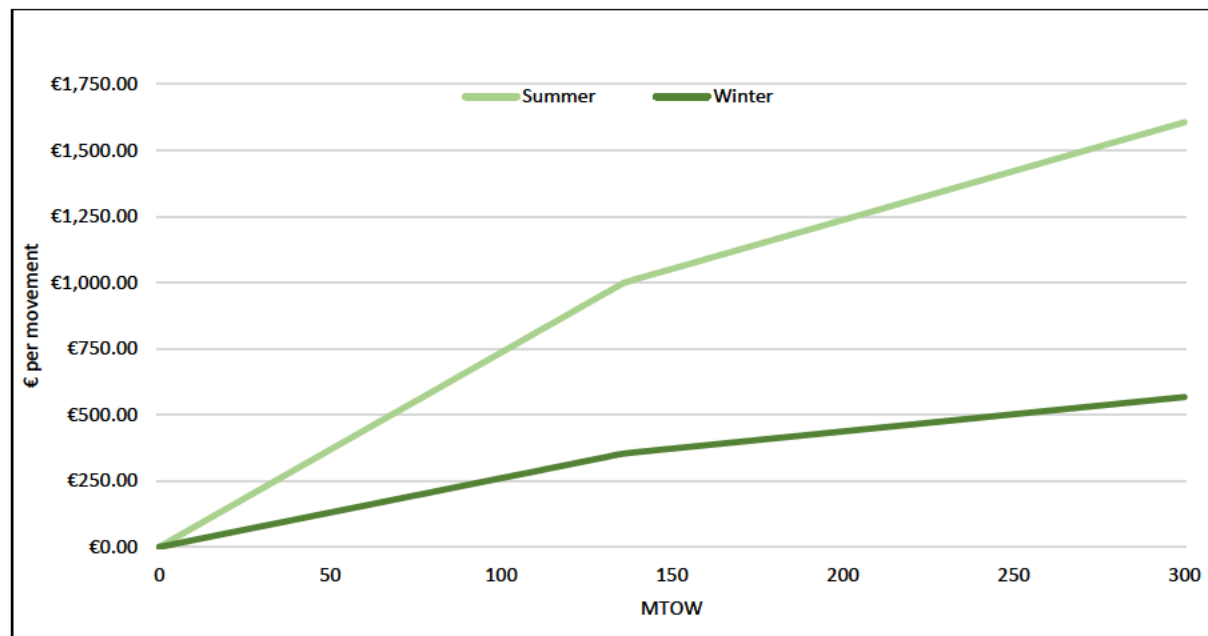
### 5.1 Background

5.1.1 Dublin Airport levies a banded runway movement charge with a higher rate applied to the first 136 tonnes<sup>15</sup> of the certified Maximum Take-off Weight (MTOW) and a lower marginal rate above 136 tonnes. The resulting schedule of movement charges for aircraft is illustrated in Table 7 and Figure 2.

Table 7. Dublin Airport Runway Movement Charge

	Charge Basis	2023		2024		▲%	
		(€)		(€)			
Runway Movement Charge per tonne	Period	Summer	Winter	Summer	Winter	Summer	Winter
	Band 1 – 0 to 136 tonnes	6.90	2.50	7.35	2.60	↑6.5%	↑4%
	Band 2 – >136 tonnes	1.95	0.00	3.70	1.30	↑90%	nm

Figure 2. Dublin Airport Runway Movement Charge 2024



<sup>15</sup> Based on UK Civil Aviation Authority (CAA) definition of 'Heavy' aircraft

## 5.2 Ryanair Complaint

- 5.2.1 Ryanair contests that the structure of the banded runway charge is discriminatory, and favours airlines who operate heavier aircraft. To support this argument, a table showing a lower blended charge per tonne for a widebody aircraft compared to a narrowbody aircraft is provided.

## 5.3 IAA Draft Decision

- 5.3.1 The IAA state that daa did not provide sufficient clarification around the justification for the runway movement charge banding structure and therefore the IAA questions whether the 'relevant' and 'transparent' requirement are met. The IAA also state that the objective requirement is not met as daa did not provide an adequate basis for the magnitude of the differentiation.

## 5.4 Demonstrated Action by daa

- 5.4.1 Following the 2024 airport charges consultation with airport users, both the banding structure and the unit rate per tonne was amended to reflect airport user views and this change reinforced the relevance and objectivity of the criteria. As outlined in Table 8, the significant changes included a 76% increase in the Summer Band 2 charge, introduction of a Band 2 charge in Winter and readjusting the structure to reflect published definitions. The cutoff at which the lower marginal rate is introduced was chosen objectively and is sourced from the CAA definition of a heavy aircraft. The transparency displayed by daa during consultation and the significant and material change to the criteria was not adequately reflected or considered in the IAA Draft Decision.

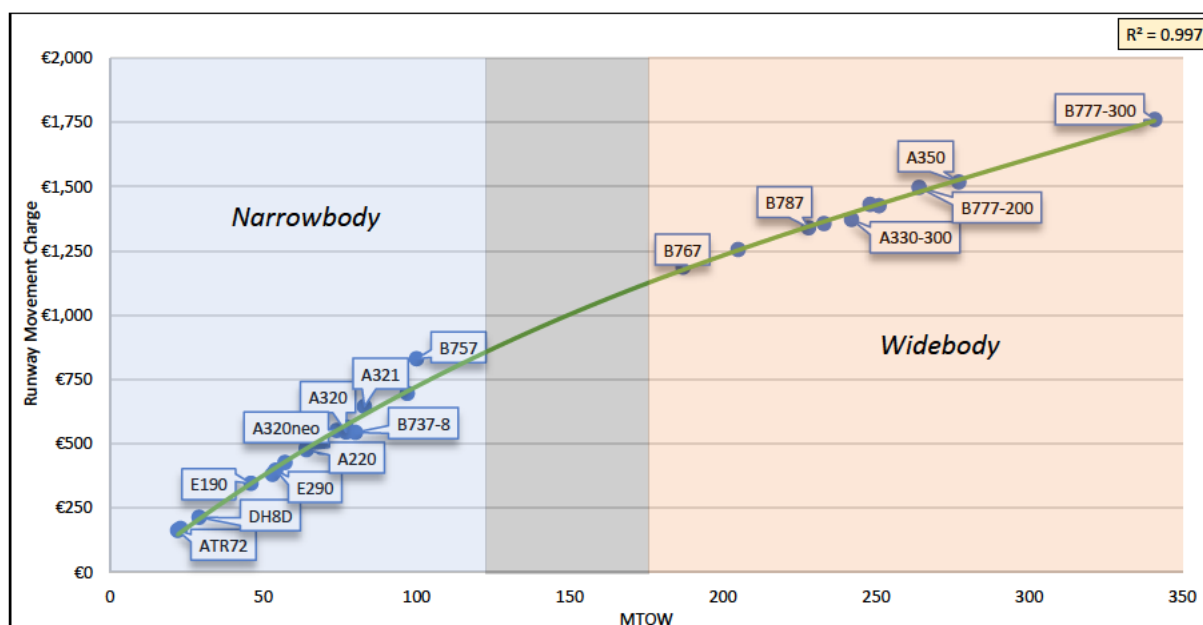
Table 8. Runway Movement Charge 2024 Proposed vs. Final

Runway Movement Charge per tonne	2024 Proposed (€)			2024 Final (€)			▲%	
	Period	Summer	Winter	Period	Summer	Winter	Summer	Winter
	Band 1 – 0 to 136 tonnes	7.45	2.70	Band 1 – 0 to 136 tonnes	7.35	2.60	↓1%	↓4%
	Band 2 – >136 tonnes	2.10	0	Band 2 – >136 tonnes	3.70	1.30	↑76%	nm

## 5.5 Response to Complaint and Draft Decision

- 5.5.1 daa is of the view that a heavy aircraft weight band is self-evidently a relevant and objective criterion, as required by the Regulations. Relevance is satisfied as, in principle, it is self-evident that there is less use of infrastructure by one heavy aircraft than by two light aircrafts. Objectivity is satisfied as the chosen weight allows for no exercise of discretion and is an industry definition used by the CAA. daa is also of the view that it has met the transparency requirement, and in particular that it has made the required disclosures under Regulation 6 including disclosure of its methodology under Regulation 6(2).
- 5.5.2 daa would like to highlight that the revised drafting of the ICAO Document 9082, 10<sup>th</sup> Edition, is due to be released in the coming months. In section II. ICAO's policies on Airport Charges, Airport Charging Systems Principles [A-13], it is stated that *"Individual airport circumstances as well as considerations in the modification of charges for the efficient use of infrastructure may also be taken into account"*. Furthermore, Section [A-16] states how *"landing charges should be based on the aircraft weight formula but could take into account other considerations"*.
- 5.5.3 The runway banding as constructed and applied by Dublin Airport is designed to optimise price flexibility for the application of runway movement charges. Band 2 is designed to ensure the assumed diminishing marginal cost per tonne is reflected in pricing.
- 5.5.4 Ryanair make several inaccurate claims in their complaint. In section 2.2, Ryanair say that *"There is simply no substantiated justification for why costs fall after [136]<sup>16</sup> tonnes"*. It is not true that the runway movement charge falls after 136 tonnes. Figure 3 shows the movement charge for the most common aircraft used at Dublin Airport which demonstrates an almost directly proportional relationship ( $\rho = 0.99$ ) between weight and total charge.

Figure 3. S24 Runway Movement Charge by Aircraft type



<sup>16</sup> In their complaint, Ryanair state 175 tonnes. This is incorrect, Band 2 was changed from 175 tonnes to 136 in the Airport Charges Final Decision following the consultation process.

- 5.5.5 Heavier aircraft always pay a higher relative movement charge and is cost-related as heavier aircraft induce more wear and tear on airport facilities. The banding of charges retains the cost-relatedness principle by ensuring that the movement charge is an ever-increasing function of MTOW.
- 5.5.6 A diminishing marginal relationship is assumed between an aircraft's MTOW, and the costs incurred to airport operators. daa's banding structure for the runway movement charge is aimed at replicating this relationship between MTOW and costs incurred. This is transposed by an increasing total movement charge as weight increases and a declining average charge per tonne of MTOW.
- 5.5.7 Ryanair note that the runway movement was 'marginally revised'. However, paragraph 5.4.1 demonstrates this not to be the case, and significant changes were made. This is further illustrated in Table 9 showing forecast revenue in band from the consulted to final charge per tonne and was not adequately reflected in the Draft Decision.

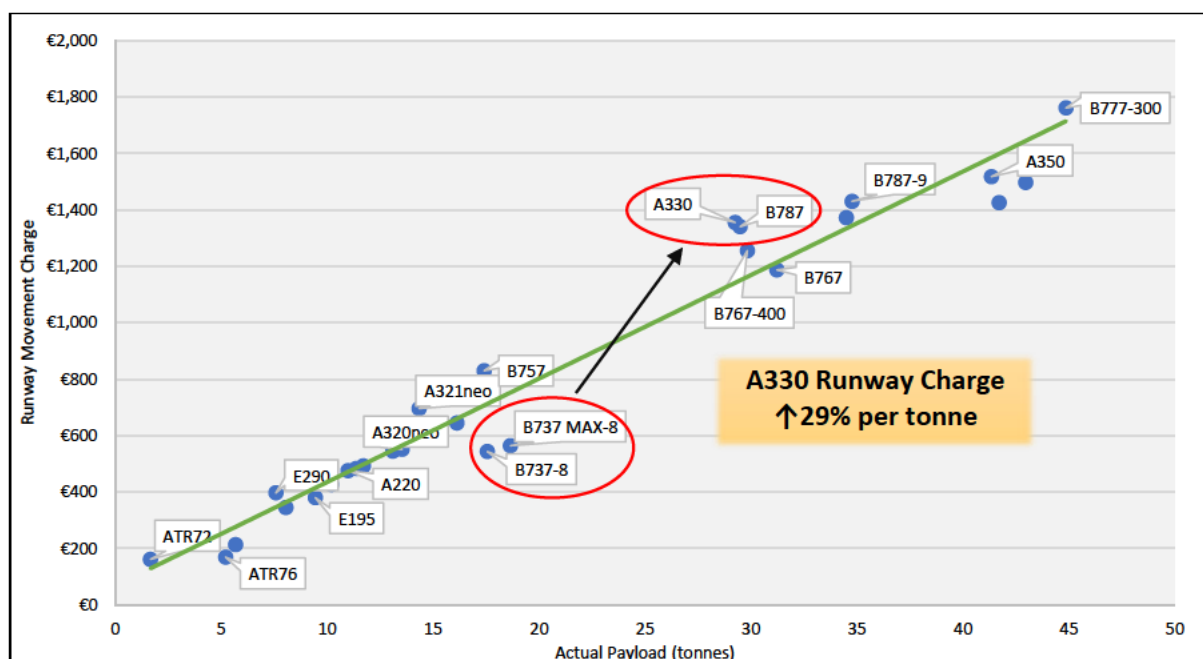
*Table 9. 2024 Forecast Runway Tonnage Revenue*

2024	2024 Proposed	2024 Final	▲%
Band 1	102,186,094	97,189,081	↓5%
Band 2	1,458,916	5,662,834	↑288%

- 5.5.8 The lower marginal rate acknowledges that actual take-off weight is lower than MTOW. Typically, widebody aircraft have a lower payload<sup>17</sup> weight as a portion of MTOW. This can be seen in Figure 4, where aircraft below the line of best fit are benefitting from a lower charge per actual payload tonne. Conversely, aircraft above the line of best fit are paying a higher charge per actual payload tonne. As it would be impractical to charge by actual take-off weight for every flight, a banded charge using MTOW is levied to reflect the actual take-off weight of widebody aircraft.

<sup>17</sup> Payload is equal to the total weight of revenue earning load i.e., passengers, baggage, and cargo.

Figure 4. Runway Movement Charge vs. Actual Payload<sup>18</sup>



5.5.9 In Ryanair's complaint, the runway charge for an A330 and B737-800 is compared that displays a marginally higher charge per tonne of MTOW for the B737-800. However, highlighted in Figure 4 and further illustrated in Table 10. **Runway Charge per tonne of payload vs. MTOW** an A330 pays a significantly higher charge per tonne when using actual payload. It should be noted that Ryanair also benefit from the lowest charge per tonne of payload when compared to similar sized aircraft.

Table 10. Runway Charge per tonne of payload vs. MTOW

Aircraft	Runway Movement Charge	
	per actual payload tonne	per MTOW tonne
B737-8	€30.94	€6.79
A330	€39.77	€5.67
▲	↑29%	↓17%

5.5.10 Banded runway movement charge with respect to MTOW is a standard design in airports across Europe for the reasons outlined above. Figure 5. **Runway charge per tonne at peer airports** shows the difference between a 737-800 and A330-300 charge per tonne several European airports. Table 11 summarises the common practice of offering a banded runway charge across European peer airports of which Dublin Airport lies within the average of a 45% differentiation.

<sup>18</sup> Estimated average payloads using Cirium data.

Figure 5. Runway charge per tonne at peer airports<sup>19</sup>

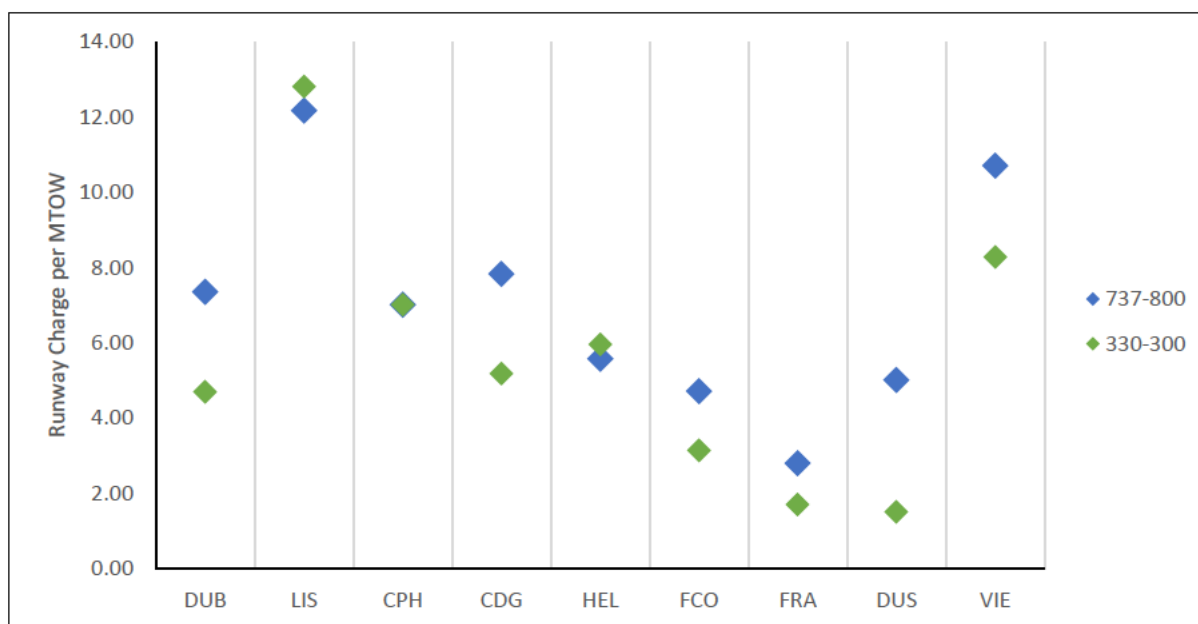


Table 11. Banded Runway Movement Charge at European Airports<sup>19</sup>

Banded Runway Charge		
Airport	MTOW	Differentiation
WAW	100	75%
FRA	35	75%
KEF	150	50%
DUB	136	50%
ARN	100	40%
FCO	150	40%
OSL	150	40%
OPO	150	30%
LIS	150	25%
BUD	150	20%

<sup>19</sup> RDC Airport Charges

- 5.5.11 Based on the information presented in this chapter daa believe that the retention of the current runway banding structure is justified and in full compliance with our legal obligations and the regulatory framework.

***Questions for the IAA:***

16. Have the IAA conducted their own analysis to inform their views on whether the claims by Ryanair are true? e.g. the Ryanair statement outlining that “costs fall after [136] tonnes”?
17. Why have the IAA not considered the material changes made to the runway movement charge following consultation, where daa conceded to much of the arguments made by Ryanair and made changes to reflect this?
18. As part of the investigation, daa provided detailed aeronautical revenue forecasts to the IAA. Was this used to assess the wider airport user impacts of removing a banding structure?
19. Following Question 18, was the aeronautical revenue forecast provided by daa used to assess whether Ryanair have incurred higher costs because of the banded runway movement charge when compared to a universal charge per tonne?
20. Why do the IAA contradict ICAO doc. 9082 by questioning the relevance of weight as a driver of the runway movement charge?

## 6 Low Emissions Aircraft Discount

### 6.1 Background

- 6.1.1 The Low Emissions Aircraft Discount (“LEAD”) is a simple standalone incentive scheme to encourage the deployment of a quieter, cleaner more fuel-efficient fleet when users are making fleet allocation decisions. While there are other initiatives to achieve global emissions issues, they are not yet sufficient to fully internalise the environmental costs of aviation. daa is committed to a proactive approach to managing Scope 3 by differentiating costs for lower carbon emitting aircraft.
- 6.1.2 As previously outlined in the 2024 airport charges consultation, daa refrained from the use of coefficients to adjust up or down airport charges and instead implement a simple and effective incentive, using absolute fuel burn. daa would also like to highlight that its position on coefficients for environmental modulation is aligned with the 2018 Thessaloniki Forum paper<sup>20</sup>.
- 6.1.3 daa also wish to outline that in response to the introduction of LEAD, Ryanair decided to *reduce* it’s allocation of lower emissions aircraft at Dublin in protest of LEAD. Table 12 shows that had the user deployed the same fleet allocation at Dublin for Summer 2024, the discount received [REDACTED]. Table 13 demonstrates the increase in carbon (4%) and noise emissions (12%) produced by Ryanair as a result of the fleet allocation decisions made, despite total aircraft movements being broadly flat year-on-year.

Table 12. Ryanair LEAD discount

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Table 13. Increase in Ryanair Noise and CO<sub>2</sub> Emissions<sup>21</sup>

Aircraft	Movements		Per Movement		Total S23		Total S24		▲	
	S23	S24	LTO CO <sub>2</sub> (kg)	QC value	LTO CO <sub>2</sub> (kg)	QC	LTO CO <sub>2</sub> (kg)	QC	LTO CO <sub>2</sub>	QC
737 MAX	17,561	6,453	2,300	0.25	40,381,147	4,390	14,838,674	1,613	25,542,473	-2,777
737-800	42,160	54,020	2,703	0.5	113,945,682	21,080	145,999,854	27,010	32,054,172	5,930
A320	724	715	2,570	0.5	1,860,351	362	1,837,836	358	-22,515	-4
Total					156,187,180	25,832	162,676,364	28,981	4%	12%

<sup>20</sup> [2018 Thessaloniki Forum paper](#)

<sup>21</sup>  $LTO\ CO_2 = fuel\ burn\ (ICAO\ emissions\ databank) \times no.\ of\ engines \times thermodynamic\ constant\ (3.16)$

QC value is the noise quota attributed to a specific aircraft type as part of the Quota Count system used for Noise Management & Mitigation at Dublin Airport.

## 6.2 Ryanair Complaint

- 6.2.1 It is suggested that daa have not considered the number of passengers on a flight and instead have used maximum take-off weight (MTOW) to define aircraft that qualify. The complaint also argues there is no reason for MTOW to be used to categorise aircraft. A comparison of absolute landing and take-off (“LTO”) cycle emissions of widebody and narrowbody is also used to illustrate the argument made by Ryanair.
- 6.2.2 daa is accused of breaching the Airport Charges Directive through its application of the proposed incentive by not adequately providing data used in its design. daa is also accused of being in breach of regulation 6(1)(c) of the 2011 Regulations as Ryanair deems the incentive to be discriminatory, rewarding heavier aircraft more.

## 6.3 IAA Draft Decision

- 6.3.1 The IAA in its assessment of the design and structure of LEAD shows a lack of understanding and basic knowledge of aircraft that operate at Dublin Airport. This has led to the IAA to making serious allegations towards daa for publishing an anti-competitive scheme by “distorting the market”, where qualifying aircraft are “handpicked” and that it is discriminatory. The IAA also finds that (i) the ‘relevant’ requirement is not met because “MTOW is not a Relevant parameter” and it is questionable whether the scheme drives behavioural change, (ii) the ‘objective’ requirement is not met because it is not clear that the chosen levels and the resulting “magnitude of the discount is proportionate”.
- 6.3.2 Critically, the IAA grossly misinterpret the LEAD scheme, again, agreeing with Ryanair that heavier aircraft are rewarded more, and that Dublin Airport are using a coefficient to adjust up or down runway and passenger charges.

## 6.4 Demonstrated Action by daa

- 6.4.1 Following pre-consultation meetings, concern was raised over the lack of a CO<sub>2</sub> per passenger element in the LEAD scheme and that an aircraft movement will be rewarded without making consideration for passenger loads. An alternative model was proposed by Ryanair, however daa believed this to be premature at this stage of daa’s implementation of environmental initiatives. There are conflicting views among various stakeholders as to what metrics should be used.
- 6.4.2 Instead, the simple and effective scheme was retained with the passenger charge being added as well as the originally proposed runway movement charge. Due to the passenger charge and runway movement charge making up a significant portion of Dublin Airports aeronautical revenue, the discount rate was reduced to 12.5% on each charge from the original 25% discount on the runway movement charge. This demonstrates that user views were duly considered, and changes were made to reflect same. This fact was not adequately reflected in the Draft Decision.

## 6.5 Response to Complaint and Draft Decision

- 6.5.1 The LEAD scheme criteria are self-evidently relevant and objective criterion, as required by the Regulations. Objectivity is satisfied as the chosen criteria allow for no exercise of discretion and are used in other contexts across the industry. daa is also of the view that it has met the transparency requirement, and that it has made the required disclosures under Regulation 6 including disclosure of its methodology under Regulation 6 (2).
- 6.5.2 Within the revised drafting of the ICAO Document 9082, 10<sup>th</sup> Edition, section II. ICAO's policies on Airport Charges, Airport Charging Systems Principles [A-14], states that *"an airport may want to encourage the use of certain technologies or attract new air services by offering rebates or discounts to a particular operator"*. The LEAD incentive is a key catalyst for delivering to Dublin Airport's sustainability objectives and climate mitigation actions. The incentive was developed while following the key charging principles of cost relatedness, non-discrimination, transparency and meaningful user consultation. The LEAD incentive is the vector to enable Dublin Airport to encourage the use of airport users next generation fleet. ICAO recognise and endorse the need for market responsiveness tools to be applied. The IAA demonstrate misaligned and poor regulatory judgement in their Draft Decision regarding the application of the LEAD incentive.
- 6.5.3 There is also evidence that current carbon prices are significantly below the social cost of carbon. The Irish government has recently published 'carbon shadow prices' which are its view on the cost to society from a tonne of carbon. These prices are currently significantly higher than EU ETS prices which airlines pay per tonne of carbon. We note that airlines also receive some free allowances, and extra-EEA / long haul flights are not covered by ETS. The government's carbon shadow price for 2024 is €322 per tonne today versus EU ETS prices of €70-100 per tonne, suggesting that EU ETS is not fully holding airlines to account. Therefore, the LEAD helps sharpen the incentive.
- 6.5.4 LEAD should not be thought of a zero-sum game where airlines simply relocate aircraft to other airports to minimise carbon costs i.e., 'carbon leakage'. It sends a more dynamic pricing signal to airport users. LEAD also gives greater confidence to the travelling public at Dublin Airport that more measures are in place to incentivise airlines to lower their emissions.
- 6.5.5 The LEAD discount is applied to the passenger service charge. A higher load factor will equate to a higher discount value. The claim that passengers on a flight is not considered, is false. Simply illustrated, a flight with no passengers will not incur passenger service charges and therefore receive no discount i.e., the level of discount is directly proportional to the number of passengers on a flight.

- 6.5.6 Transparency is always central to any consultation held and daa is acutely aware of its obligations in this regard. The fuel burn data used was provided to Users as well as a summary of its analyses used to design the incentive which satisfies regulatory obligations daa is subject to.
- 6.5.7 Addressing whether behavioural change is achieved through the scheme, Table 14 shows an almost 30% increase in lower carbon and noise emitting aircraft being utilised by non-based carriers<sup>22</sup>. This significant increase highlights that the scheme is relevant, with users responding to the pricing signal and a positive outcome for the general and public interest by reducing carbon and noise emissions.

*Table 14. LEAD qualifying aircraft at Dublin Airport*

Aircraft	S23	S24
A220	1,726	1,134
E195/190-E2	727	1,868
A350	534	386
B787	3,190	2,672
A320neo	2,049	2,156
A321neo	1,384	3,003
B737 MAX	378	862
ATR-72	699	1,179
<b>Seasonal Adj.Total<sup>23</sup></b>	<b>10,342</b>	<b>13,260</b>
<b>% ▲</b>	<b>↑28%</b>	

- 6.5.8 The illusion that larger, heavier aircraft benefit more is false and daa strongly reject the suggestion that the LEAD incentive is discriminatory. Table 15 outlines the total LEAD discount expected in 2024. Narrowbody aircraft benefit more than widebody aircraft on an absolute, per tonne and percentage basis. The percentage discount being higher for narrowbody aircraft is driven by the overall higher cost of operating widebody aircraft at Dublin Airport.

*Table 15. 2024 LEAD discount by aircraft*

Aircraft	Gross Charges (€)	Low Emissions Aircraft Discount (€)	Passengers	Discount per passenger	Discount %
MTOW <105	58,537,963	-6,296,912	6,192,725	-6	-11%
MTOW >105	14,551,972	-1,167,005	1,104,866	-2	-8%

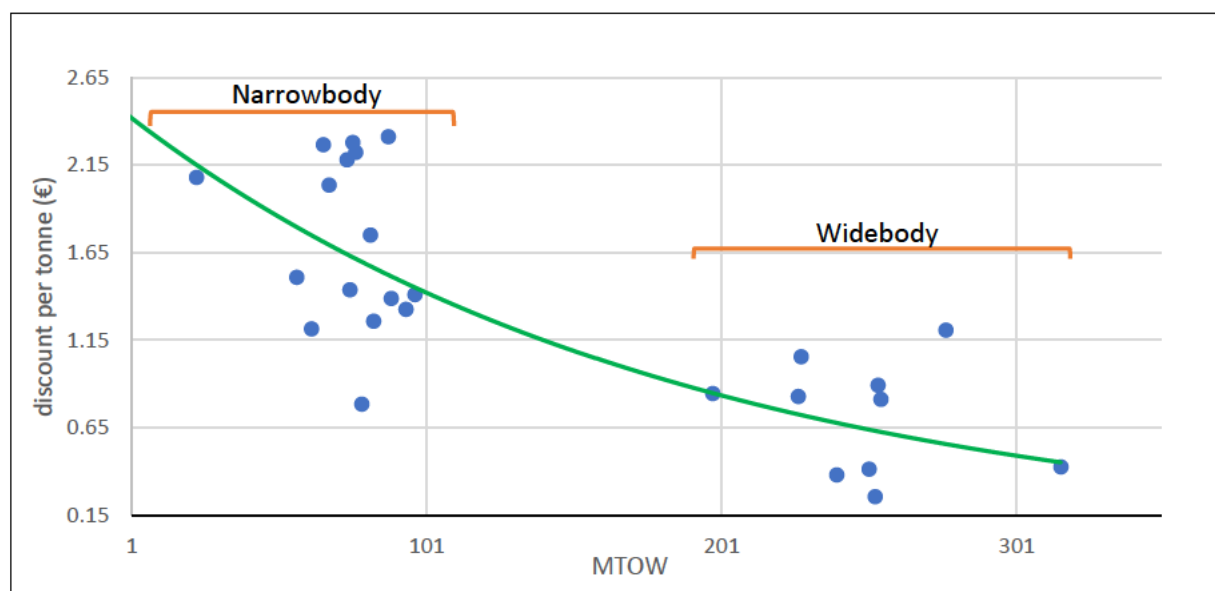
<sup>22</sup> As referenced in section 5.1, Ryanair have reduced qualifying aircraft utilised at Dublin by 65% in protest of LEAD, increasing emissions and noise. Therefore, non-based carriers have been used in the analysis, omitting both Ryanair and Aer Lingus.

<sup>23</sup> To account for the extra week in S23, a factor of 0.97 has been applied to provide a like-for-like comparison.

6.5.9 Fuel burn in the LTO cycle is used to qualify aircraft, not MTOW. The use of MTOW is to differentiate narrow and widebody aircraft as they differ substantially in performance (and therefore LTO CO<sub>2</sub>) and aircraft economics. Figure 6 illustrates a summary of the actual discount per tonne of aircraft which clearly illustrates a diminishing marginal discount as MTOW increases, furthering the point that heavier aircraft are *not* rewarded more. Figure 6 also shows the reasoning behind the 105 tonne threshold that was set, there is a large jump in MTOW from the higher end of the narrowbody the lower end of the widebody scale (refer to Section 5, Figure 3 also).

6.5.10 For clarity, Figure 6 is to demonstrate the reducing discount per tonne as MTOW increases in response to Ryanair's selective analysis contained in the complaint. daa do not agree with this metric as alluded to in 3.4.2, paragraph 3. This is an ambiguous metric, is not constructive to the debate, and serves Ryanair's self-interests.

Figure 6. Discount per tonne of MTOW



6.5.11 To address the pointing statement by the IAA that daa have “*handpicked*” aircraft that qualify, is factually incorrect. A short desktop analysis, consulting OEM (Original Equipment Manufacturer) material readily available online, would find that aircraft in the LEAD scheme are included on merit. To address this alarming statement, daa outline below all aircraft that operate at Dublin in Figure 7 and Figure 8.

6.5.12 Both Figure 7 and Figure 8 illustrate fuel burn in the LTO cycle against MTOW. Aircraft highlighted in green achieve a fuel consumption that is 15% lower than similar sized aircraft which satisfies the qualifying criteria for the LEAD incentive<sup>24</sup>.

<sup>24</sup> Paragraph 3.2, [Low Emission Aircraft Discount](#)

Figure 7 LTO Fuel vs. MTOW (<105 tonne)<sup>25</sup>

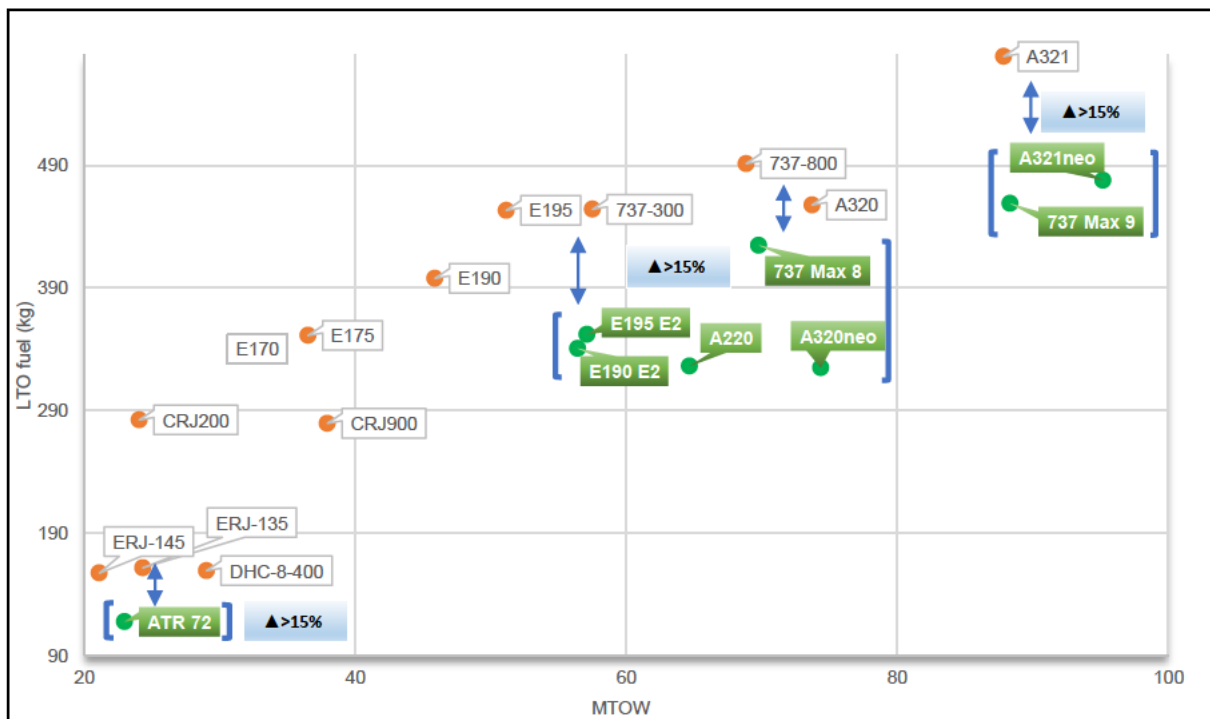
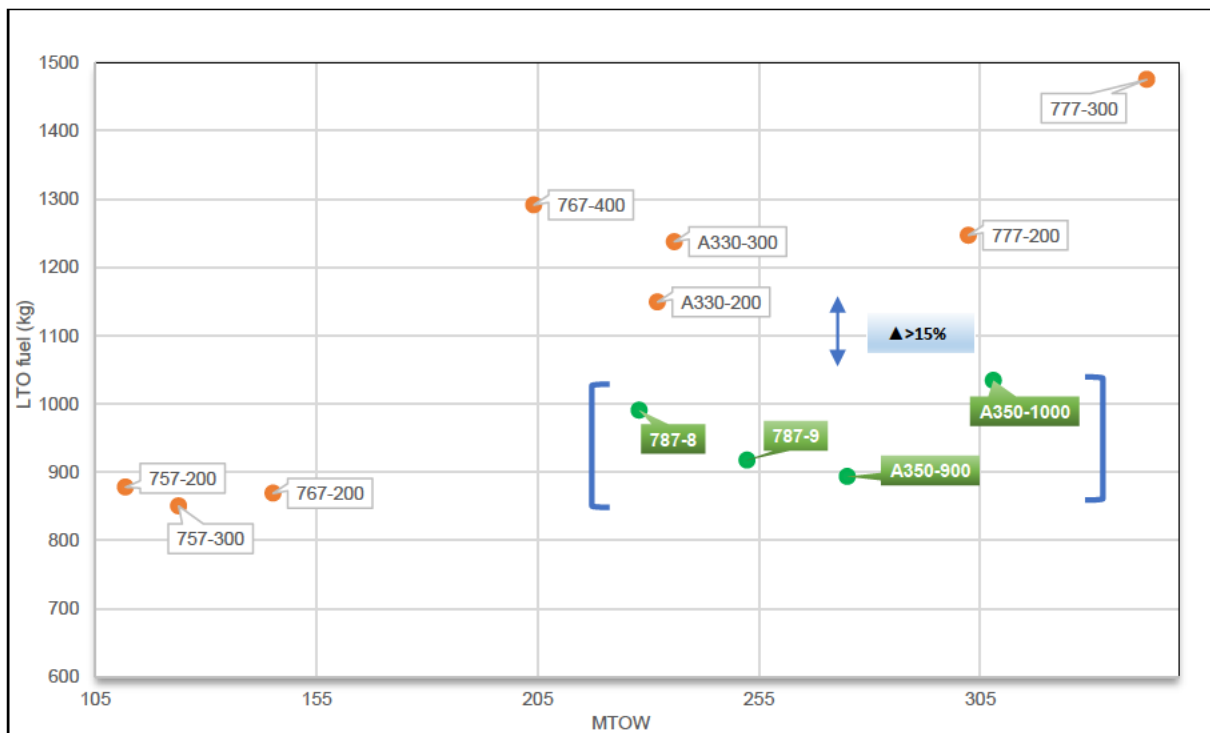


Figure 8. LTO Fuel vs. MTOW (>105 tonne)<sup>25</sup>



<sup>25</sup> Estimated LTO fuel-burn using data provided by Cirium

6.5.13 LTO cycle is only a part of the full flight emissions and the reason for its use in the incentive was outlined during consultation. As noted in paragraph 6.5.9, it is incorrect to compare LTO emissions of widebody and narrowbody aircraft as this fails to reflect the carbon intensity of the flight as aircraft differ considerably across markets, sector length and aircraft economics.

6.5.14 An example of this is shown in Table 16 which demonstrates a much higher carbon intensity for a short sector narrowbody flight compared to a medium length sector widebody flight. In the example illustrated, emissions per Revenue Passenger Kilometre for a Boeing 737 MAX are double that of a Boeing 787.

*Table 16. CO<sub>2</sub> Emissions per RPK<sup>26</sup>*

Aircraft	Seats	LF	Passengers	From	To	Distance (km)	RPK	Full flight CO <sub>2</sub> (kg)	CO <sub>2</sub> per RPK (g)
737 MAX	197	96	189.12	DUB	KIR	261	49,368	5,148	104
787-10	336	81	272.16	DUB	AUH	5,939	1,616,443	78,849	49

---

<sup>26</sup> Data provided by Cirium

- 6.5.15 The IAA interpret LEAD as modulating charges using a coefficient to adjust up or down charges rather than a standalone incentive scheme, contradicting daa's messaging throughout the consultation process. LEAD is a standalone, published incentive scheme, which applies a discount to charges that account for a significant portion of total aeronautical revenue and deemed the most appropriate to be discounted. Charges are not increased for non-qualifying aircraft. It is surprising that the IAA have somehow arrived at this conclusion that there is a coefficient that increases charges for non-qualifying aircraft, which is nowhere on the published table of aeronautical charges, Dublin Airport Terms & Conditions, or any incentive scheme Terms & Conditions.
- 6.5.16 The justification and analysis provided demonstrate the complexity of designing an environmental incentive for the desired outcome of encouraging the use of lower carbon emitting aircraft at Dublin Airport. In a real-world setting, there is no design where externalities are nil. While there may be measurable undesired pricing signals in some form using blackboard theory, the incentive that has been implemented at Dublin Airport is simple and effective as clearly illustrated above.
- 6.5.1 Based on the information presented in this chapter daa believe that the retention of the current LEAD incentive is justified and in full compliance with our legal obligations and the regulatory framework.

**Questions for the IAA:**

21. Have the IAA communicated their position on whether (or not) airport authorities should contribute to the efforts to achieve national environmental policies and objectives to the Minister/Department of Transport?
22. Have the IAA conducted analysis that contradicts the transparent qualifying parameters outlined in the LEAD scheme, to determine that a risk of aircraft being "handpicked" exist?
23. Can the IAA explain and *demonstrate* how the LEAD scheme is a modulating coefficient of charges as opposed to a published incentive scheme?
24. Why do the IAA describe the 12.5% discount rate for qualifying aircraft as a coefficient, increasing non-qualifying aircrafts airport charge as appose to only discounting charges for qualifying aircraft?
25. Have the IAA conducted its own analysis to determine that larger aircraft are paid more when the contrary has been provided in section 6?
26. Why was the disparity between the shadow cost of carbon and ETS not considered in the IAA's analysis?
27. Why have the IAA not considered other measures of carbon intensity assess the validity of the LEAD scheme i.e., emissions per RPK?

## 7 Nitrogen Oxide (NOx) Charges

### 7.1 Background

- 7.1.1 daa endeavoured to align Dublin Airport to Ireland's Clean Air Strategy<sup>27</sup>, Climate Action Plan<sup>28</sup> and wider policy objectives by adopting a nominal charge on aircraft emissions to internalise the social cost of local air pollutants created by aircraft at Dublin Airport. As previously identified in consultation, the EU legal limits of particulate matter and associated air pollutants are reducing by 50% by 2030. It is imperative that Dublin Airport take the necessary measures to ensure a proactive approach by creating a pricing signal that reflects the need to reduce local air pollutants to be on target by 2030.

### 7.2 Ryanair Complaint

- 7.2.1 The Ryanair complaint details a NOx charge as not being within the public interest. Ryanair also outline that it would deter the use of "enviro-friendly" aircraft by being penalised through such a charge due to the inverse relationship of NOx and CO<sub>2</sub> for some engine types. Ryanair also note that there is no legal obligation for such a charge to be levied.

### 7.3 IAA Draft Decision

- 7.3.1 The IAA take the position that there is an "*absence of clarity*" of the justification and unit charge of €0.25. The IAA also write, "it is not entirely clear whether the *NOx related charges are said to be a modulation for the purpose of public interest*". The IAA are unsure as to the motivation to implement such a charge, whether it is to price for the cost of NOx or to drive behavioural change. The IAA conclude that as a NOx charge is not relevant it can't be justified.

### 7.4 Demonstrated action by daa

- 7.4.1 Responses to the NOx charge were primarily focused on whether there was a reasonable justification for implementation. There was limited response to the proposed NOx charge in relation to methodology, approach, and the level of charge. As a result, there was limited scope for modification of the original proposal.

### 7.5 Response to Complaint and Draft Decision

- 7.5.1 daa is of the view that the chosen NOx criterion is self-evidently a relevant and objective criterion, as required by the Regulations. Relevance is satisfied as NOx affects air pollution. Objectivity is satisfied because it is obvious that there is no potential for exercise of discretion. daa is also of the view that it has met the transparency requirement, and that it has made the required disclosures under Regulation 6 including disclosure of its methodology under Regulation 6(2).
- 7.5.2 the IAA have agreed with Ryanair that a charge on air pollution is not in the public interest and not relevant. Despite, as outlined above, the programme for government describing a multi-agency approach to achieving its Clean Air Strategy.

---

<sup>27</sup> [Clean Air Strategy for Ireland](#)

<sup>28</sup> [Climate Action Plan](#)

- 7.5.3 The ICAO document 9082, (Policies on Charges for Airports and Air Navigation Charges) stipulates that a charge on NO<sub>x</sub> emissions is “*prudent and appropriate*” where a defined local air quality problem exists. The fundamental oversight of the IAA’s Draft Decision is that it fails to consider that local air quality emissions-related charges can be applied at airports with a defined local air quality problem, but this can be either “*existing or projected*”.
- 7.5.4 daa again reiterates the alignment of a NO<sub>x</sub> charge to EU and national policies to limit the increase of local air pollution. The Environmental Protection Agency (EPA) outline transport as the main contributor to NO<sub>x</sub> and cite the Climate Action Plan and the new legal limits set out in the EU Directive to come into effect by 2030<sup>29</sup>. It is difficult to understand how the IAA have concluded a NO<sub>x</sub> charge as not relevant, given other state agencies have identified a ‘*problem*’, as the IAA have described it, with the absence of clarity as to what defines a ‘*problem*’.
- 7.5.5 Ireland’s Clean Air Strategy has also committed to the Interim WHO 2026 NO<sub>x</sub> targets. This commits Ireland to achieving particulate matter levels below a certain limit value. The 2026 limit value is set at 20 µg/m<sup>3</sup>. As outlined in Figure 9 there are multiple air quality monitoring stations within, and in the vicinity of, the Dublin Airport campus. As outlined in the published air quality reports<sup>30</sup> for Dublin Airport, some stations are below the 2026 WHO targets that Ireland has signed up to (and the EU Directive). However, there are several stations outlined in Figure 10 that are close to or above the limit value of 20 µg/m<sup>3</sup>.

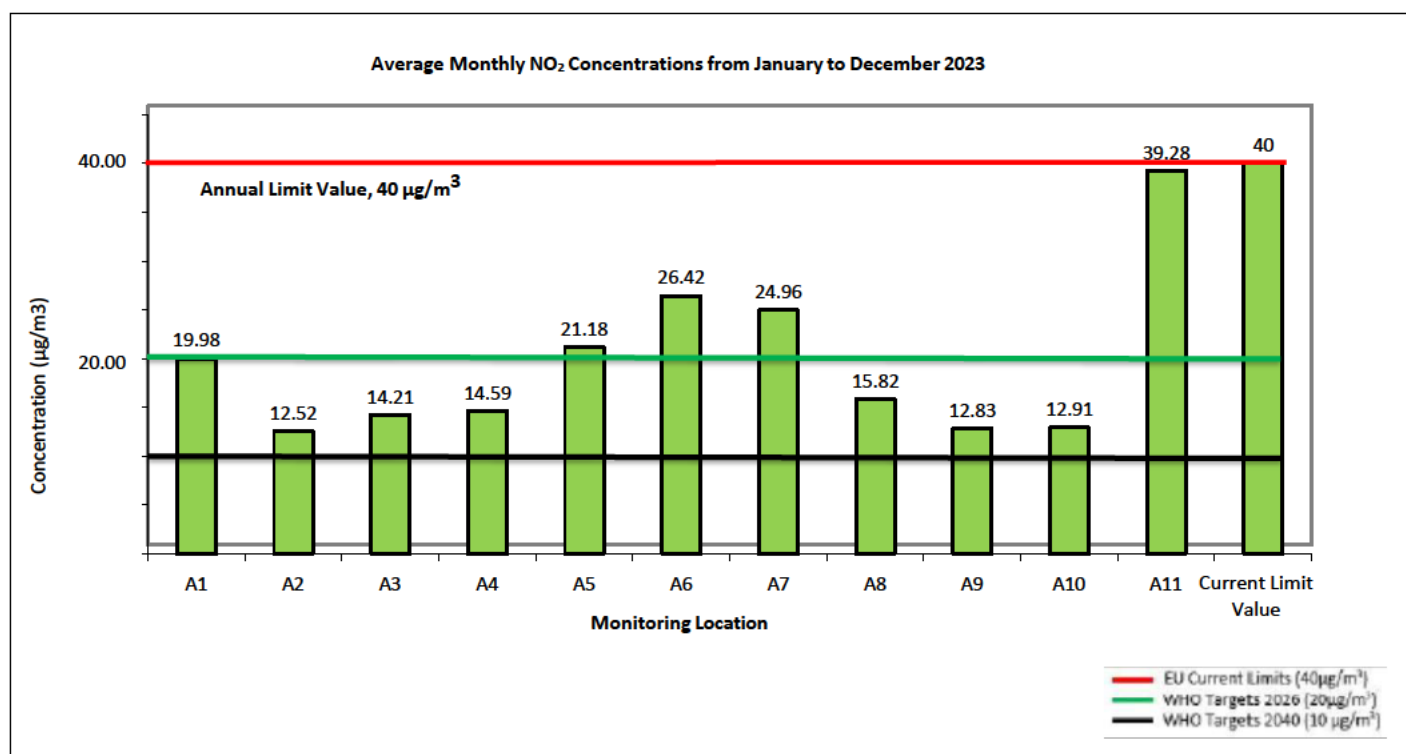
Figure 9. Dublin Airport Air Quality Monitoring Stations



<sup>29</sup> [Environmental Protection Agency – Ireland's Environment – An Integrated Assessment 2020 – Environment and Transport \(epa.ie\)](#)

<sup>30</sup> [Air Quality Data | Dublin Airport](#)

Figure 10. Average NO<sub>2</sub> Levels at Dublin Airport



7.5.6 The unit charge is deemed a proportionate application in terms of overall revenue collected. It is unclear as to what the IAA expect in terms of setting rates by questioning how the unit rate is set at €0.25.

7.5.7 daa would like to highlight that Ryanair do not hold a position to determine whether a charge levied on air pollutants is in the public interest, as any normal business will seek to reduce costs regardless of the objective, as previously outlined. This interpretation lies with the competent authority.

7.5.8 Key facts in Ryanair's correspondence have also been omitted in the Draft Decision that shows a clear contradiction in Ryanair's argument. In the letter from Ryanair to daa dated 6 October outlines;

*"Whilst it is a positive step that the NO<sub>x</sub> proposal is minimal, we are concerned that daa will increase this in the future and illogically apply higher charges to aircraft with lower CO<sub>2</sub> emissions".*

7.5.9 Given the statement above, Ryanair appeared to have accepted a NO<sub>x</sub> charge with its main concern being an increased unit charge in the future. This raises questions about the validity of the NO<sub>x</sub> charge being included in the complaint and daa ask why this was not accounted for in the IAA's Draft Decision.

7.5.10 As outlined during consultation and illustrated in Table 17, daa reminds the IAA that many airports have levied NO<sub>x</sub> charges which deems this to be an appropriate, relevant charge and is in the public interest.

Table 17. Comparator Airports

Airport	CO <sub>2</sub>			NOx
	seat	passenger	tonne/MTOW	
LGW	✓		✓	
LHR				✓
GOT	✓		✓	✓
ARN	✓		✓	✓
CPH				✓
HAM				✓
HAJ				✓
DUS				✓
CGN				✓
FRA				✓
NUE				✓
MUC				✓
STR				✓
ZRH				✓
GVA				✓
AMS				✓
BRU				✓
LTN				✓
EDI				✓
LYS	✓		✓	

7.5.11 Based on the information presented in this chapter daa believes that the retention of the current NOx emissions charge is justified and in full compliance with our legal obligations and the regulatory framework.

**Questions for the IAA:**

28. Have the IAA communicated their position on whether airport authorities should (or shouldn't) address air quality issues and objectives set out in the Programme for Government, Clean Air Strategy and Climate Action Plan to the Minister/Department of Transport?
29. Do the IAA assess the published air quality reports, and daa not currently achieving 2026 WHO air quality targets that Ireland has committed to, as inadequate when considering the relevance of a NOx charge and whether or not it is in the public interest?
30. Why do the IAA determine that a NOx charge to achieve the 2026 WHO air quality targets and improving local air quality as not in the public interest?
31. Did the IAA assess if and how the NOx charge would deter Ryanair in the use of "enviro-friendly" aircraft when there is a multi-million-euro incentive scheme in place for lower emissions aircraft that Ryanair can avail of?
32. Why was consideration to Ryanair's statement outlined in paragraph 7.5.8 not made by the IAA when Ryanair's complaint ground for the NOx charge was a breach of the 2011 Regulations?