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15 December 2023

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IAA
11 – 12 D'Olier St.
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By email: Adrian Corcoran (adrian.corcoran@iaa.ie), Luke Manning (luke.manning@iaa.ie)
Re: Complaint Against Dublin Airport 2024 Airport Charges & Consultation

Dear Adrian,

I refer to Dublin Airport's decision for 2024 airport charges and the consultation process.

daa are seeking excessive and unjustified increases for Dublin Airport's 2024 charges, which are increasing up to +11% next year. Ryanair has issued repeated letters to Dublin Airport, alerting them to their failings in the conduct of the consultation and their abuse of their monopoly position as well as requesting clarity on the underlying charges and cost transparency (see Ryanair letters dated 4 December, 6 October and 27 October).

Regrettably, Dublin Airport has failed to respond meaningfully to our questions or address our concerns. Ryanair's position is that daa's 2024 consultation and charge decision breaches S.I. No. 116/2011 - European Communities (Dublin Airport Charges) Regulations 2011 (hereinafter "the 2011 Regulations").

daa's 2024 proposal is characterised by four elements: fewer passengers, less connectivity, ineffective infrastructure development and higher prices. This proposal reflects the complete mismanagement of Dublin Airport and a fundamentally flawed charging structure. Ryanair objects to the excessive daa proposal, and requests that daa immediately engage with airport users and revert with a sensible proposal that aims to increase traffic and connectivity through lower charges.

daa's 2024 charges proposal can be summarised below:

- Dublin Airport wants to establish itself as an outlier amongst European airports, by reducing traffic in 2024 below 2023 levels whilst also seeking to progress an enormous gold-plated infrastructure project plan.
- Dublin Airport will ignore its largest customer's warning that further cost increases will make the additional loss of connectivity inevitable for S24, on top of Ryanair's W23 reductions, which included the loss of 17 direct connections in response to Dublin Airport's high airport charges.
- While the Department of Finance forecast 4.5% economic growth in 2024 and further growth thereafter, Ireland's largest airport will not lay one brick in 2024 for extra gates/terminal space to support the connectivity necessary to sustain higher economic growth, tourism, and trade.
- In return for the above, daa's mismanagement will penalise airlines and passengers with up to +11% higher charges.

Ryanair objects to the proposed charge increase on the basis that daa's consultation is in breach of the provisions of Directive 2009/12/EC (the "ACD") and the 2011 Regulations, in particular the lack of transparency on costs and how airport charges are set. Despite Ryanair's requests, daa have provided

completely inadequate responses. Ryanair is also concerned at the lack of cost-relatedness of many aspects of the proposal. Finally, Ryanair has serious concerns over daa's flawed and discriminatory environmental proposals.

I outline Ryanair's complaint below. Ryanair requests that the IAA consider this complaint pursuant to the provisions in section 45B of the Aviation Regulation Act 2001 and issue a suitable direction to daa pursuant to section 45B(2). Once the IAA has had a chance to consider this initial letter, Ryanair requests that the IAA meet with Ryanair to understand further Ryanair's concerns and to enable Ryanair to most efficiently provide any further information which the IAA may need in order to properly consider the complaint.

1. Charge increases

Ryanair has an overarching concern about daa setting 2024 airport charges at the very maximum level permitted under the Price Cap. daa have full discretion to set airport charges so that daa's revenues are below the Price Cap, yet year after year daa set charges in order to maximise the Price Cap. In contrast, other European airports are setting charges below their allowed price caps/ revenue levels, such as Stockholm-Arlanda and Budapest.

It is clear that the Price Cap has been set too high, as evidenced by Ryanair's cuts and reduced total passenger forecast by daa. Ryanair has repeatedly warned that further charge increases will put capacity and connectivity at risk as it becomes uneconomical for Ryanair to operate capacity with excessive and unjustified costs. This impact is already being felt under the charge increases which have already occurred: for W23 Ryanair had no choice but to cut 17 routes as well as reduce frequencies on 24 other routes. daa's focus on continued, excessive charge increases will inevitably cause further route cancellations and capacity reductions.

daa, as an Irish state-owned company, ought to be positively contributing and supporting the Irish aviation and tourism sector, as well as the economy more broadly. Ireland, a small and open trading economy, requires international connectivity. Instead of supporting international connectivity, daa is damaging the aviation sector by seeking excessive charge increases and collecting monopoly rents. Additionally, daa is being rewarded with an increase based on consumer inflation. CPI does not measure daa's costs, and instead by daa increasing their charges in line with inflation daa are working to further embed inflation into the Irish economy.

In adopting what appears to be a default position of maximum charging within the Price Cap, daa is exhibiting characteristic monopoly behaviour: extracting maximum monopoly rents from users. Ryanair has called on daa to revise downward their 2024 charge proposal but this request has been ignored. daa's proposal for 2024 charges is wholly out of sync with Ireland's National Aviation Policy in that by setting uncompetitive charges, daa is ultimately harming tourism, connectivity, and the overall economy by driving direct and indirect job losses.

Ryanair therefore now calls on the IAA to intervene pursuant to its powers under section 45B of the 2001 Act and instruct daa to set charges below the price cap. The further particulars of the complaint are outlined in the subsequent sections of this letter.

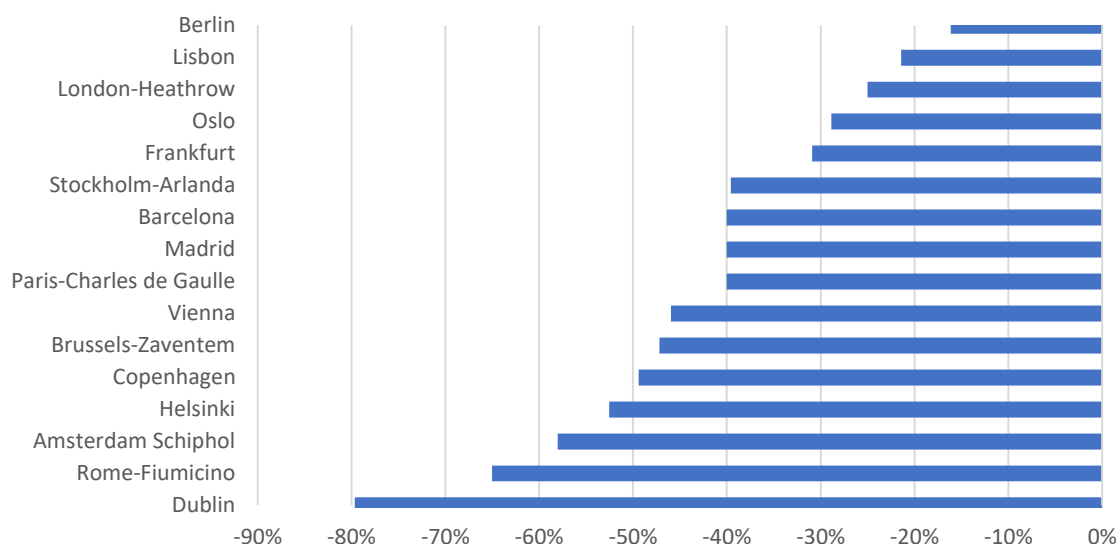
2. Level of airport charges

Ryanair objects to the underlying airport charges proposed by daa (i.e., the Runway Movement Charge, the PSC and the Transfer Charge etc.).

2.1. Transfer Charge

Ryanair objects to the discriminatory proposal to cross-subsidise transfer passengers via the 80% discount given to transfer passengers versus passengers departing from a contact stand (€13.05 per passenger v. €2.65 per passenger). This is one of the highest transfer discounts offered in Europe (see Chart 1 below).

Chart 1: 2023 Transfer passenger discount across major European & UK airports



Source: Ryanair own calculations based on publicly available airport charges

daa has refused to provide any cost transparency on the underlying cost differences between transfer passengers and non-transfer passengers, save for a table stating that passenger traffic constitutes 5% of traffic (1.2 million transfer passengers out of 22.7 million passengers). daa failed to define the year to which this data relates so Ryanair has no way of validating this limited data. daa refused to answer Ryanair's information requests in our letter dated 6 October, and again during the consultation meeting on 12 October as well as in Ryanair's recent letter dated 27 October. daa have provided no detail to explain the 80% transfer discount.

In response to Ryanair's request for cost detail on transfer passengers, daa issued a table containing "ticks" of which facilities are or are not used by transfer passengers and non-transfer passengers, yet provided absolutely no cost detail or quantification of the cost differential between transfer and point-to-point passengers. Additionally, the information provided was wrong and misleading. The lack of cost detail is a clear breach of the 2011 Regulations.

daa's complacency in giving excessive discounts to transfer passengers (whilst penalising more environmentally friendly point-to-point passengers with higher charges) was apparent during last year's consultation, where it emerged that daa had not amended the transfer passenger charge in c. 10 years, and only amended the 2023 transfer charge following significant pushback from Ryanair during the 2023 consultation.

daa's deliberate decision to ignore Ryanair's questions and comments constitutes a breach of Article 6 and Article 11 of the 2011 Regulations. daa has failed to outline the methodology used for setting the transfer passenger charge, or to provide information to confirm if the charge is indeed relevant, objective or transparent.

daa have failed to provide any calculations to explain the 80% cost differential between transfer passengers and point-to-point, nor have daa shared any reports / studies by daa (or commissioned by daa) that examine the price / cost differential between transfer and non-transfer passengers.

The unjustified favouring of transfer passengers creates an undue discrimination between airlines. It allows airlines enjoying transfer passenger discounts to cross-subsidise routes where it competes with airlines (such as Ryanair) not enjoying the transfer passenger discount.

Ryanair's position is that the transfer passenger charge is in breach of:

- (a) Regulation 6(1)(b) of the 2011 Regulations, in that daa has failed to provide sufficient information about the reasons behind the different treatment of transfer passengers;
- (b) Regulation 6 (1) (c) of the 20011 Regulations, being discriminatory between airlines;
- (c) Regulation 6(1) (d) of the 2011 Regulations, to the extent that the modulation is alleged to be for an issue of public and general interest, daa has not justified that using relevant, objective and transparent criteria.

Ryanair requests the IAA issue a statutory direction to daa to remove this discriminatory cross subsidisation between transfer passengers and non-transfer passengers.

2.2. Runway Movement Charge

Although daa did marginally revise the charges proposed following Ryanair's criticism of the discriminatory and irrational framework which originally set a €0.00 cost for Runway Movement Charges for aircraft weight >175 tonnes during Winter, as well as heavily discounted charges (€2.10 per tonne) during the Summer season, the landing fee discount remains discriminatorily low.

daa's proposal remains discriminatory, in favour of larger, more polluting aircraft, despite these heavier aircraft emitting more CO₂ and consuming greater runway resources, employing a greater use of infrastructure, and accelerating capex depreciation. Larger aircraft are favoured via the discounts for heavier landing weight, which disproportionately benefits larger aircraft. There is simply no substantiated justification for why costs fall after 175 tonnes, as daa's charge modulation applies.

daa's policy rewards larger aircraft which emit more CO₂ and this contradicts environmental policy and environmental incentives. This discounting for larger aircraft is not justified in terms of efficient environmental outcomes, i.e., CO₂ per passenger emissions.

This discriminatory favouring of larger aircraft creates a distortion between airlines, as airlines who employ a greater number of larger aircraft in their fleet benefit. See Table 1 below. There is no reason that an A330-300 should pay a lower price per MTOW than a Boeing 737-800.

Table 1: Landing charge per MTOW

	Airbus A330-300	Boeing 737-800
MTOW	242	75
Landing Charge	€1,391.80	€551.25
<i>Charge per MTOW</i>	€5.75	€7.35

In addition, pursuant to Directive 2009/12/EC, airport charges are required to be cost related. Ryanair has asked for information to understand the relationship between the costs and the charges supporting the approach to aircraft which weigh above 175 tonnes on a number of occasions (see for example, Ryanair's letter dated 27 October 2023), but has not been provided with sufficient information.

daa has therefore failed to be clear on the cost base in relation to this aspect of the decision. Ryanair's position is therefore that the Runway Movement Charge in relation to aircraft over 175 tonnes is in breach of:

- (a) Regulation 6(1)(b) of the 2011 Regulations, in that daa has failed to provide sufficient information about the components serving as a basis for determining the system or the level of the charges;
- (b) Regulation 6 (1) (c) of the 2011 Regulations, being discriminatory between airlines.

Ryanair also considers that this approach to aircraft over 175 tonnes, and lack of transparency about the relevant cost base is a breach of Article 11 of the 2011 Regulations in that any differentiation in charges is required to be according to the quality and scope of the services and their costs or any other objective and transparent justification. daa has failed to provide any objective and transparent justification for the favouring of aircraft over 175 tonnes.

3. CO₂ Emissions Aircraft Discount

3.1. Flawed design model

daa's CO₂ Emissions Aircraft Discount is a breach of Article 6 (1) (d) of the 2011 Regulations, as discounting based on the parameters used in the calculation/modulation are irrelevant to reducing emissions (i.e., MTOW), they are not objective and there has been insufficient transparency on the reasoning of the criteria (i.e., the CO₂ thresholds). Any incentive scheme under the price cap acts as modulation between airport charges and airlines.

At the Joint Committee on Transport and Communications ("the Joint Committee") debate, Wednesday 14 June 2023, daa CEO Kenny Jacobs said:

*"We can grow in aviation in a more sustainable way. I refer to newer aircraft; electric taxiing of the aircraft whereby they are electricity-powered when they are on the ground instead of using their engines; and running a very efficient airfield operation. All of these things matter and help when it comes to reducing the amount of carbon dioxide per passenger kilometre. Not all flying is the same. Not all flying is as bad as other types of flying. We certainly want to incentivise the right type of flying, which is newer aircraft and higher load factors – that is a much more efficient model."*¹ (emphasis added)

– Kenny Jacobs, Dublin Airport CEO

Ryanair agrees with Kenny Jacobs' statement above, in that efficient flying with reduced CO₂ per passenger must be incentivised. It is however perplexing that daa's proposed CO₂ aircraft discount fails to support any of the daa's CEO's statements to the Joint Committee.

daa's incentive scheme exclusively looks at engine emissions from the LTO cycle obtained from the ICAO emissions databank. daa's model bizarrely ignores environmental efficiency (CO₂ per passenger), as well as ignoring airline's operational procedures and aircraft retrofits, which work to measurably reduce CO₂ emissions. daa's CO₂ incentive scheme is seriously flawed, as outlined below:

- daa's proposal ignores an airline's environmental efficiency (i.e., CO₂ per passenger) by ignoring how many passengers are on a flight. Despite daa agreeing that high load factors are essential for improved environmental outcomes, this proposal ignores a flight's load factors. daa failed to explain why. The MTOW parameter is not a relevant factor on which to modulate charges. The only relevant modulation parameter would be CO₂ emissions per passenger.
- daa applies a discount on the landing charge based on an airline's MTOW, whereby heavier airlines with a larger MTOW will receive a larger nominal discount, despite this having nothing

¹ https://www.oireachtas.ie/en/debates/debate/joint_committee_on_transport_and_communications/2023-06-14/2/

to do with emissions (in fact the opposite, heavier aircraft are generally less fuel efficient and emit more CO₂). daa failed to explain why. This modulating parameter is not relevant or objective.

- daa separates aircraft into two categories, those with an MTOW < 105 tonnes and those > 105 tonnes. Ryanair rejects this separation between aircraft as there is no reasoning for it, and it will only work to protect the larger, heavier emitting aircraft via reductions when they pollute more than smaller aircraft. daa failed to transparently explain why. Again, the bands are not relevant.

Table 2: >105 “Low Emissions” aircraft vs. <105 “Low Emissions” aircraft

Aircraft	LTO Fuel Burn	Seats	CO ₂ per Pax (85% LF)	MTOW	Landing Charge	Proportion of flights	Landing Discount
787-8	796	234	12.6	227	€1,412.95	100%	€143.06
737-8200	365	197	6.9	74	€551.30	100%	€68.91
Δ	46%	84%	54%	33%	39%	100%	48%

As seen above, despite a 737-8200 burning 46% less fuel and 54% less CO₂ per passenger during the LTO cycle, the 737-8200 receives around half of the discount the 787-8 receives. Ryanair objects to a “low emission” incentive scheme that gives a relatively larger nominal discount to aircraft which have a higher CO₂.

daa’s proposal fails the requirement set out in Article 3 of the ACD for the lawfulness of environmental modulation of airport charges, which states *“The criteria used for such a modulation shall be relevant, objective and transparent.”*

Any modulation that fails to incentivise higher load factors and establishes arbitrary and senseless criteria for modulation, such as MTOW, is not relevant to achieve the aim of environmentally efficient flying outlined by daa’s own CEO, or objective in its application, as required by Article 3 of the ACD and the 2011 Regulations.

- daa have provided no transparency on how they have calculated the LTO fuel burn thresholds of 380kg and 955kg, meaning the charge is not transparent. This is a blatant violation of Article 6 (1) (d) of the 2011 Regulations.
- daa’s model ignores aircraft retrofits and operational procedures which airlines engage in to reduce CO₂ (such as aircraft winglets, single engine taxiing and continuous descent), meaning the charge is not relevant or based on objective parameters.
- daa’s model ignores SAF, failing to reward airlines who utilise SAF and ignores actual CO₂. Ryanair has an ambitious SAF target of powering 12.5% of our flights with SAF by 2030. Surprisingly, daa’s proposal goes no way to incentivising SAF at Dublin Airport. By ignoring SAF and actual emissions, daa’s model is not relevant.
- daa’s model ignores airline retrofits and procedures which work to reduce CO₂, meaning daa’s modulation is irrelevant.
- Under daa’s 2024 pricing model, a 737-8200 aircraft will still cost more than in S23, acting as a disincentive and deterrent for Ryanair to place any 8200s in Dublin Airport when comparable airports are offering well designed (and non-discriminatory) incentives and year-on-year discounts for 8200 aircraft.

The approach also amounts to a breach of regulation 6(1)(c) of the 2011 Regulations in that it has the effect of discriminating between airlines as it benefits airlines with a larger MTOW through a higher discount despite this aircraft emitting more CO₂.

3.2. Ryanair CO₂ proposal

In the course of representations made to daa, Ryanair had proposed that daa introduce a CO₂ incentive scheme based on CO₂ per passenger, whereby airlines with above average CO₂ per passenger face a penalty, and airlines with below average CO₂ per passenger receive a discount: see Ryanair's letter to daa dated 27 October 2023.

Such a scheme would also capture whether airlines have invested in retrofits (such as winglets) which reduce CO₂ emissions, but which are not reflected in the ICAO emissions database. Operational and procedural actions taken by airlines to reduce emissions must also be captured. Such a scheme would encourage environmentally efficient flying and comply with the requirements of Article 3 of the ACD.

Such an approach would amount to the use of appropriate, relevant and objective criteria to obtain the environmental objectives, but daa has failed to properly engage with this proposal and has (as explained in the preceding subsection) has therefore ultimately adopted an unlawful approach.

4. NOx charge

During the in person consultation meeting held on 12 October, daa confirmed that there is an inverse relationship between NOx and CO₂ emissions, i.e., that newer engines which emit lower CO₂ emissions inversely emit higher levels of NOx.

However, despite this and despite daa working to reduce their own Scope 1 and Scope 2 CO₂ emissions, daa is proposing to introduce a NOx charge from 2024, meaning new "enviro-friendly" aircraft will bizarrely be penalised at Dublin Airport via the NOx charge, rather than rewarded, meaning daa will work to increase Scope 3 emissions.

Ryanair has repeatedly informed daa of the inverse relationship between NOx and CO₂ emissions (which daa now seems to accept) and that daa would deter environmentally friendly aircraft from Dublin by introducing a NOx charge. The magnitude of the proposed charge is irrelevant – airports can only introduce modulated charges if there are transparent, objective and relevant criteria for doing so, as required by Article 3 of the ACD. There is no cost burden on daa for which it must levy a NOx charge. daa have not evidenced that NOx is a salient issue around Dublin Airport or in Ireland more generally, despite it being Irish Government policy to work to reduce CO₂ emissions and encourage environmental CO₂ efficiency.

There is therefore no objective, public interest justification for the modulated charge and it is in breach of regulation 6(1)(d) of the 2011 Regulations.

The argument presented by daa that it is "playing catchup" during the consultation meeting of 12 October is not sufficient to justify the levying of a NOx charge, nor is it even true. Only a minority of the airports covered by the ACD have a NOx charge (c. 22%). It is notable that half of these airports are legally mandated to have a NOx charge (Germany) as part of the national transposition of the ACD. However, no such legal obligation exists for Dublin Airport to i) have a NOx charge; or, ii) incentivise reduced scope 3 NOx emissions.

5. daa capex & CIP plans

daa has failed to address Ryanair's questions contained in Ryanair letter dated 27 October as to which capex trigger projects (amounting to a total of €1.1bn) have already secured planning permission. Additionally, in Ryanair letter dated 27 October Ryanair requested a timeline of when daa expects to submit planning requests for all remaining projects (for each trigger project). daa has simply ignored

Ryanair's questions. This lack of transparency is a failure in the consultation and amounts to a breach of regulation 6(1)(b) of the 2011 Regulations.

6. daa transparency & consultation detail

Ryanair has serious concerns as to the way in which daa has conducted the consultation and the limited information and transparency provided. Daa has an obligation to provide sufficient cost detail to airlines, yet Ryanair has received no cost detail despite multiple requests in order to understand how airport charges are set. I refer to our correspondence with daa in this regard, which is appended to this letter.

Additionally, many of the official consultation comments raised by Ryanair (i.e., in letter dated 6 October and 26 October) were not recorded in daa's "Summary of Consultation Responses". Instead, daa has been selective and discriminatory in which comments they include, failing to include the majority of Ryanair's comments raised.

We consider this failing to amount to a breach of regulation 6(1)(b) of the 2011 Regulations.

We request that once IAA has given initial consideration to this letter that it meet with Ryanair to further elaborate on this complaint.

Yours sincerely,



Regan Tilson

Head of Airport Economics

Ryanair

cc. Ray Kelliher. **Director of Route Development – Ryanair.**
Eoin Kealy. **Head of Competition and Regulatory - Ryanair**
Adam Kehoe. **Senior Airport Economics Analyst – Ryanair.**

Attachments

1. Ryanair letter 6 October 2023
2. Ryanair letter 27 October 2023
3. Ryanair letter 4 December 2023