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Irish Aviation Authority (IAA)
11-12 D'Olier Street
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2 July 2024

RE: Draft Decision – Ryanair complaint on Airport Charges at Dublin Airport

Dear Adrian,

I refer to the IAA's Draft Decision published on 28 May 2024 ("**the Decision**") which upheld the majority of Ryanair's complaints against the unjustified, unobjective and discriminatory setting of airport charges and incentives by daa at Dublin Airport for 2024 and to which our detailed responses are included in Appendix 1 – informed by our position as Europe's biggest airline operating to approximately 240 airports. We welcome the Decision from the IAA which rightly concludes, inter alia, that Dublin Airport must:

1. Amend its discriminatory and unjustified **-80% discount** for more polluting transfer passengers originating outside of Ireland. These transfer passengers provide little to no economic benefit to the local / Irish economy, albeit rather paradoxically their discounts are being financed by Irish citizens starting their journeys from Dublin Airport and inbound visitors who contribute to the Irish economy throughout their stay in Ireland.
2. Amend its discriminatory and ill-thought-out two-tier landing charge structure, which bizarrely seeks to provide discounts for **noisier**, heavier, and more polluting aircraft – which daa have failed in (or are incapable of) providing any sensible justification for.
3. Overhaul its flawed Low Emissions Aircraft Discount Scheme ("**LEAD**") for a fit-for-purpose scheme based on the industry, national and EU standard for measuring environmental efficiency (i.e., CO₂ per passenger). LEAD is severely flawed, has not incentivised more environmentally efficient aircraft and comically gives bigger discounts to more polluting aircraft as detailed in Table 2 of our complaint letter dated 15 December 2023. The only thing LEAD has incentivised is the reallocation of 19 Ryanair Boeing 737 8-200 "next-gen" aircraft away from Dublin to other airports across Europe who are genuinely incentivising lower-emitting aircraft – meaning we have zero "next-gen" aircraft based in Dublin.

Furthermore, in the context of their already excessive Price Cap which will continue to increase until 2027, daa must invest from its own resources to provide airlines with an actual incentive for lower-emitting aircraft – since it is the airlines who will need to make these significant fleet investments. daa cannot try to take credit for an environmental discount when it is simply proposing a circular system of funding "discounts" for airlines through higher charges paid by those very same airlines – as confirmed by the IAA in the Decision.

4. Scrap the proposed introduction of a baseless NO_x charge which, ironically, serves as a further disincentive for airlines to base "next-gen" aircraft at Dublin, given the known inverse relationship between reduced CO₂ and NO_x (i.e., measures introduced to reduce CO₂ emissions often lead to increased NO_x emissions).

For too long, daa has attempted to evade regulatory scrutiny of its opaque charging structure under the auspices of the Price Cap. While we welcome the news that IAA is now willing to act against daa's discriminatory charges, which are in breach of the European Communities

(Dublin Airport Charges) Regulations 2011 (“**the 2011 Regulations**”) and EU Airport Charges Directive (“**the ACD**”), the proposed remedy regrettably falls short of our expectations. The complaints upheld in Ryanair’s appeal have already been raised with daa numerous times and, despite daa’s amendments to their charging scheme, the discriminatory charges have still not been revised to achieve compliance with the 2011 Regulations or the ACD.

As such, based on the reasoning set out above, IAA’s instruction for another consultation on charges / incentives risks being abused by daa yet again. To ensure that Dublin Airport’s charges are set in a non-discriminatory, transparent, and cost-related manner, Ryanair calls on IAA to introduce by statutory direction (as permitted under section 45B of the Aviation Regulation Act 2001 (as amended)) an immediate remedy to the breaches identified in the Decision as follows:

- i. Proposed charges must not contain discriminatory discounts for transfer passengers;
- ii. Proposed charges must not include discriminatory tiered runway movement charges;
- iii. If there is to be an environmental incentive proposed, it must be based on CO₂ per passenger, in line with industry standards; and,
- iv. Scrapping of the proposed NO_x charge, which disincentivises the flying of lower CO₂ emitting aircraft.

As always, we remain available to discuss the contents of this letter or any of our earlier submissions.

Yours sincerely,



Ray Kelliher
Director – Route Development
Ryanair

Appendix 1 – Ryanair’s Comments to IAA’s Draft Decision published on 28 May 2024

Complaints 1 and 2 – Excessive Overall Price Level and Capex

It is disappointing that IAA refused to uphold Ryanair’s complaints about excessive airport charges and capex at Dublin Airport. We disagree that these two complaints relate solely to the 2022 Determination. In line with the Airport Charges Directive and considering daa’s exorbitant +€3bn capex plan, which will not deliver a single extra passenger for the foreseeable future due to daa’s failure to manage the planning process, daa must justify their capex decisions, proposed charge amendments and overall charge level to airport users on an annual basis – the Price Cap doesn’t absolve daa of this requirement.

In the time since the 2022 Determination, daa’s excessive capex plans which were rubber-stamped by the IAA (save for one project) and which are the main drivers of the permitted **+45%** increase to the Price Cap at Dublin Airport, now look even more detached from reality. For example, Madrid Airport announced plans this year to add capacity for an extra 30m passengers per annum by 2031 (90m total) for €2.4bn. daa, in contrast, wants to spend €3.1bn in total and is only seeking to add capacity for an extra 8m passengers (40m total). This poor value for money is unsurprising when one examines daa’s capex plans, which includes, inter alia, a four-lane tunnel under a rarely used runway at a cost of €250m and a €34m fast-track lane. Airlines have a right to challenge this wasteful capex that is driving increased airport charges at Dublin Airport when these increased airport charges, rather than the Price Cap, are consulted on.

It is also worth noting that since the 2022 Determination, the daa’s failure to prioritise lifting the artificial 32m passenger cap present at Dublin Airport has resulted in an effective ban on growth at the Airport. Dublin Airport is the only Airport in Europe that has opened a new runway (at a cost of €320m) without adding any extra capacity. This is absurd and airlines must be allowed to challenge charge increases / wasteful capex in this context.

IAA’s justification for not considering these complaints is subsequently contradicted within the Decision. IAA acknowledge the Thessaloniki Forum guidance requiring that airports must provide transparency so that airlines can assess cost-relatedness, which applies to both individual charges and the overall level of charges. Applying the same guidance, the excessive increases in capex and charges at Dublin Airport during a time of constrained capacity, regardless of the Price Cap, must therefore be grounds for airlines to reject the same increases.

Ultimately, daa’s excessive charge increases are driven by wasteful capex, which is a clear example of daa abusing its market position – regrettably, for Ireland, this will come at the expense of connectivity. It is this connectivity which is vital for a growing economy, tourism, visiting friends and family, etc. If daa’s primary focus was on removing the artificial passenger cap imposed by the local County Council, rather than on forcing through excessive capex projects (which nobody wants) in order to seek higher airport charges, then Ireland’s connectivity would be in a much better place over the coming years. Instead, Dublin and Ireland will continue to lose out to other cities and regions across Europe, as growth passes Ireland by. This prospect is extremely damaging for “Ireland Inc.” and it is the duty of the IAA, as the economic regulator for Dublin Airport, to challenge this.

Complaint 3 – Differentiation of Passenger Charge between transfer and point-to-point passengers is discriminatory

Ryanair welcomes IAA’s finding that the transparency requirements of the ACD, the 2011 Regulations, and the associated Thessaloniki Forum guidance have not been met by daa. We also welcome the finding that daa’s justifications for differentiating the Passenger Service Charge (“PSC”) between transfer and point-to-point passengers have not been objective.

Ryanair rejects daa's flawed justifications for this discriminatory discount. In particular, justifying the transfer passenger discount by referring to the National Aviation Policy amounts to cherry picking. The transfer passenger discount has been funded by increased airport charges which have, ironically, reduced the overall competitiveness of Dublin Airport and led to a reduction in routes, notably Ryanair's cancellation of 17 routes in Winter 2023. By increasing charges, daa has conveniently ignored the National Aviation Policy's aim of increasing connectivity to Ireland.

With the above points in mind, Ryanair is concerned that IAA's conclusion that the charging modulation / differentiation needs only to be "reassessed" by Dublin Airport to achieve compliance with the 2011 Regulations, may allow for daa to continue their discriminatory pricing, providing new ad hoc justifications for its continuation. IAA must therefore instruct (by statutory direction) daa to fully abolish the discriminatory transfer discount.

Complaint 4 – Differentiation of Runway Movement Charge is discriminatory

Ryanair agrees with IAA's finding that daa's justification for a two-band landing charge is discriminatory and based on "*a subjective perception of unfairness*" rather than objective analysis.

We welcome the IAA's finding that daa's "Heavy aircraft discount" bizarrely rewards heavier, more polluting, and noisier aircraft at Dublin Airport. Ryanair's less heavy, far more environmentally efficient, and quieter aircraft are not eligible for this discounted rate, raising serious questions about daa's actual commitment to incentivising quiet and environmentally efficient aircraft at Dublin Airport.

Ryanair also agrees that daa's cost per seat justification is flawed, since fixed costs are better addressed by allocating the costs across more passengers (i.e., increasing number of seats on the aircraft and increasing load factors), rather than discriminatory discounts paid for by other airlines. Contrary to the referenced objectives, daa is incentivising environmentally inefficient flying.

While Ryanair welcomes the IAA's recommendation that the structure of the runway movement charge be reconsidered, it is disappointing that IAA failed to take a firmer approach and instruct daa to abolish the current two-band structure. Such infringements of the 2011 Regulations cannot be simply amended by daa with explanations offered afterwards, amounting to a reverse procedure which would harm airport users' rights during the consultation process. The two-band structure has already been reconsidered and amended by daa yet remains discriminatory and lacking any objective or transparent justification. In order to effectively avoid discrimination, daa must therefore be instructed to implement a runway movement charge which is fully cost-related and consists of only one band, equally applicable to all aircraft weights.

Complaint 5 – The Low Emissions Aircraft Discount Scheme is flawed

Ryanair welcomes the finding that daa's CO₂ emissions incentive scheme is highly flawed and breaches the 2011 Regulations, as its parameters are neither relevant (e.g., MTOW) nor objective (e.g., fuel burn thresholds or two different aircraft bands) and contravene the recent Thessaloniki Forum Environmental Modulations Guidance. daa's convoluted and unobjective scheme has failed to incentivise lower emission aircraft to Dublin Airport, as evidenced by Ryanair decision to remove its 19 "next-gen" aircraft (which reduce noise by -40% and CO₂ emissions -20%) based in Dublin.

The breaches of the Regulation are unsurprising, given that daa chose to construct a scheme without using the industry-wide environmental efficiency measurement of **CO₂ per passenger**

– which is used by airlines, airports, governments, and the EU. By diverging from this universally accepted measurement, any CO₂ modulation / incentive will be inherently irrelevant and unobjective.

It is also notable that the IAA have confirmed that the headline “discount” is -12.5% (as opposed to -25%, which daa has falsely claimed in writing and the media), and that the *“discount does not change the total revenues collected by Dublin Airport, but rather redistributes some of the burden away from eligible aircraft and towards non-eligible aircraft.”* In the context of increasing charges across the board, airlines were effectively offered nothing in return for operating environmentally efficient aircraft at Dublin.

While Ryanair looks forward to daa presenting a fit-for-purpose environmental scheme in the upcoming consultation for Winter 2024, we believe that it is a missed opportunity by IAA to not compel daa (by statutory direction) to follow the Government’s own national aviation policy and use reduced CO₂ emissions per passenger as the key parameter in the modulation / incentive.

Complaint 6 – NO_x charge is not relevant

Ryanair welcomes the finding that daa’s NO_x charge has no relevant justification as required by Regulation 6 and/or Regulation 11 of the 2011 Regulations. NO_x emissions do not represent a cost for Dublin Airport and there is no need to modulate for NO_x charges on general interest grounds. Ryanair maintains its position that the NO_x/CO₂ trade-off must be considered in the context of all stakeholders working towards reduced CO₂ emissions.