

Strictly Private & Confidential

24 April 2024

**Irish Aviation Authority
The Times Building
11-12 D'Olier St
Dublin 2**

Email: consultation@iaa.ie

By email

Re: IAA Draft Decision on Winter 2024/25 Coordination Parameters at Dublin Airport

Dear Sir / Madam,

We refer to the above draft decision (11 April 2024) which Ryanair rejects for the reasons set out below:

- The IAA's proposed seat cap will artificially constrain capacity at Dublin Airport, despite a €320m investment in the new North runway that enables the airport to reach its stated target of 40m passengers per annum, and major infrastructure investments such as Terminal 2. Artificially constraining capacity at Ireland's main international gateway would unfairly deprive airlines and passengers at Dublin Airport of the benefit of their recent substantial contribution to capital projects at the airport, while reducing competition, damaging economic growth, tourism and employment in Ireland. The proposed artificial cap will inevitably reduce connectivity and choice for Irish consumers.
- The proposed artificial cap contradicts Ireland's National Aviation Policy which has the stated goals of:
 1. enhancing Ireland's connectivity,
 2. fostering the growth of aviation in Ireland, and
 3. maximising the contribution of aviation to Ireland's growth and development.

This conflict is particularly egregious given Ireland is a small island economy on the periphery of Europe, heavily dependent on aviation.

- The IAA's proposed artificial cap for Winter 2024 / 2025 sets an unacceptable precedent for future seasons and is an unlawful interference with historic rights to arrival and departure slots at Dublin Airport, acquired by airlines under Article 8(2) of the Slots Regulation.

Approx. 26m seats are planned to operate to / from Dublin in Summer 2024. Assuming the IAA takes a similar approach for its capacity declaration for Summer 2025, historic slot rights carried over by airlines – from Summer 2024 into Summer 2025 – will likely exceed the artificial seat

cap by approx. 1.5-2.0m seats. This means the IAA will in effect be forcing airlines to give up historic slots to ensure Summer 2025 capacity is below the artificial seat cap, without setting out a lawful basis or the proposed mechanism for such a step.

The IAA appears to view Condition 3 of the 2007 Terminal 2 planning permission and Condition 2 of a 2008 Terminal 1 extension planning permission (the “Conditions”) as a “*relevant technical, operational and environmental constraint*” as per Article 6(1) of the Slots Regulation for the purpose of declaring the Winter 2024/25 coordination parameters. However, Ryanair believes the Conditions:

1. Are too ambiguous to be implemented and as a result should be ignored by the IAA when setting coordination parameters. Regulatory conditions which are insufficiently precise are not enforceable.
2. Are not “*relevant technical, operational and environmental constraint[s]*” under Article 6(1) of the Slots Regulation as they relate to obsolete concerns regarding surface access to / from Dublin Airport and not terminal, runway or stand parameters considered by the IAA under Article 6 of the Slots Regulation. Any “constraint” posed by the Conditions is a matter only for Fingal County Council under relevant planning legislation.
3. Have not been applied since their inception in 2007/2008, during which time conditions around surface access have clearly improved, coupled with a significant increase in availability and use of public transport at Dublin Airport.

On this basis, applying the artificial seat cap would be irrational, disproportionate, a breach of IAA’s statutory duty under Article 6(1) of the Slot Regulation and Section 8(1) of the Aviation Regulation Act, 2001 and constitute an unlawful interference with our property rights as protected by the Irish Constitution, Article 17 of the EU Charter of Fundamental Rights, and under Article 1, Protocol 1 of the European Convention on Human Rights.

- The IAA bizarrely ignored the advice of the Dublin Airport Slot Coordination Committee, which in its meeting of 28 March 2024 comprehensively rejected (92% vote) the application of an artificial seat cap for the Winter 2024/25 capacity declaration. The Slot Coordination Committee also voted against (92% vote) a pause in passenger growth for Winter 2024/25.

Article 6(3) of Council Regulation (EEC) 95/93 (the Slots Regulation) requires the IAA to discuss in detail the coordination parameters with the Slot Coordination Committee “*with a view to increasing the capacity and number of slots available for allocation*”. It is not tenable for the IAA to use an ambiguous and obsolete road traffic planning condition to reject the clear position of the Slot Coordination Committee.

- Without prejudice to our overall rejection of the artificial slot cap, the IAA’s proposed approach to the artificial cap is inflexible and will needlessly impede competition in Dublin and harm consumers. We are concerned the IAA may not permit airlines to redistribute existing historic slot rights to different parts of the season, e.g., from periods of lower demand such as November to periods of high demand such as Christmas. The proposed artificial cap, combined with the IAA’s proposed needless inflexibility will result in a material (up to -35%) reduction in capacity during periods of peak demand (school holidays, Christmas, St. Patrick’s Day, etc.).

We call upon the IAA to remove the proposed artificial seat cap from its final decision and refrain from making a misguided and unlawful implementation of the Conditions, for the reasons set out above and in particular on the basis that they are not a “*relevant technical, operational and environmental constraint*” as per Article 6(1) of the Slots Regulation.

Any unlawful implementation of the Conditions by way of an artificial seat cap that results in Ryanair losing historic slot rights will give rise to a requirement to vindicate our rights up to and including court action.

Yours sincerely,

A handwritten signature in black ink, appearing to read "M. Healy", is written over a horizontal line. A large, diagonal, light-colored mark, possibly a watermark or a large "X", is drawn across the signature and the text below it.

Michael Healy
Director of Network Optimisation

CC: Eoin Kealy – Director of Competition & Regulatory