DUBLIN AIRPORT

Response to Commission for Aviation Regulation

Consultation on a Second Interim Review due to COVID-19 of the 2019 Determination of Airport Charges at Dublin Airport (CP1/2021)

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Non-Confidential version

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COVID-19 Impacts

- 7.4 million passengers in 2020, the same as 1995 levels
- This means a loss of 25 million passengers
- X-X million passengers is the current 2021 forecast

- 44 airlines operating in 2021 versus 52 in 2019
- 93 routes in May 2021 versus 179 in May 2019
- 2021/22 Airport charges are reduced with the introduction of COVID-19 pandemic discount on runway movement and parking charges

- After tax losses of €XXX million (including exceptionals) in 2020. Operating costs cut by 37% or €XXX million in 2020 (including the government supports)
- Forecast EBITDA losses of over €XXX-€XXX million (including exceptionals) in 2020-2021

- Staff reduction of circa 1,000 due to voluntary severance scheme, with exceptional restructuring costs incurred

Executive Summary

Dublin Airport has faced a year of turmoil following the onset of the COVID-19 pandemic, with the collapse of passenger traffic at airport. In 2020 passenger traffic at Dublin Airport was down some 25 million when compared to 2019 with passenger volumes effectively back to 1995 levels.

Despite the ongoing drastic impact of COVID-19, Dublin Airport has continued to fulfil its statutory duties and we have remained fully operational in order to serve our airline customers, the travelling public and facilitating critical cargo freight. We have continued to ensure the best possible health and safety standards; we have implemented extensive COVID-19 protocols and efficient virus testing facilities.

Dublin Airport has where possible, supported our airline and business customers. We have offered financial relief to our commercial tenants, we have waived aircraft parking charges, and we lowered airport charges through incentives, all in an effort to maintain air connectivity and services for passengers at our airport. Each of these measures were implemented and maintained despite the severe financial crisis impacting the company.

Impact of COVID-19

Dublin Airport's aeronautical and commercial revenues all but disappeared following the outbreak of COVID-19. In 2020, the daa Group was required to increase its debt facilities by €1bn, drawing down €350m EIB funded debt, raising €500m on the Eurobond market and increasing its revolving credit facility by €150m.

These current difficulties are likely to extend into the immediate future and our industry will now continue to face unprecedented challenges for an extended period. For 2021, latest projections indicate that passenger numbers at Dublin Airport are likely to be far lower than that of 2020 and are projected to be between [redacted] million. For 2022, there is a considerable amount of uncertainty around passenger traffic. Given this uncertainty, our latest projection for 2022 is based on a range of [redacted] million.

[redacted]

[redacted]

Price Regulation Response to COVID-19

Dublin Airport relies significantly on the revenue generated from the airport charges levied on its airline customers to fund the ongoing operation and development of the airport in line with our statutory duties. The levels of airport charges are in turn set by the current varied 2019 Determination.

It is now clear that many aspects of the varied 2019 Determination are no longer valid given the drastic impact of the COVID-19 pandemic on the Dublin Airport business and the assumptions underpinning each building block are fundamentally undermined. We understand that the 2020 Interim Review was required as a short term solution but it is now necessary for the Commission to revisit is regulatory assumptions in regard to the price cap for 2022-2024 and ensure that the basis for the price caps for remainder of this determination period is valid. We would therefore support the need for a further Interim Review in 2021.

We welcome the Commission's decision to consult on three potential options for a further second review. Further to the options presented by the Commission, we propose that the 2021 Interim Review seeks to realign the 2022 price cap using a top down approach, which would take account of the impact of COVID-19 on the various regulatory building blocks underpinning the 2022 price cap.

A similar approach could then be followed for the 2023 and 2024 price caps in subsequent years, subject to regulatory consultation and endorsement. Alternatively, if the industry were to significantly recover in the immediate future, a new Determination could be undertaken in 2022 to take effect from 2023 for the following 6-7 years. The merits of this approach are simply that the price cap would be grounded in actual reality of the up to date operational environment of the business.

Dublin Airport believes that the Commission now has a critical role to play in aiding recovery in the aviation market and ensuring the longer-term financial viability of the airport. We understand that airport charges are regulated to 'protect airlines' from airport's supposed abuses of market power where regulators ensure 'airport affordability' for airlines. However, if regulation de facto protects airlines in good times, it also needs to protect airports in bad times therefore it would be both logical and fair to allow airports to recover their costs throughout the crisis.

Cost recovery is a staple of airport regulation. It is meant to ensure the stability and continued development of airports, which in turn enables healthy airline competition as well as diversified and affordable air connectivity.

Dublin Airport looks forward to working collaboratively with the Commission and all stakeholders, so that we collectively achieve a balanced regulatory settlement that will primarily best serve passengers, but also the wider airport community.

1. Introduction

1.1 Introduction

1.1.1 Dublin Airport welcomes the publication of the Commission's paper CP1/2021 - Consultation on a Second Interim Review due to COVID-19 of the 2019 Determination of Airport Charges at Dublin Airport on the 31st March. We support the Commission's decision to consult on a number of options in regard to a review of the 2019 Determination for 2022 and beyond.

1.1.2 The outbreak of COVID-19 in 2020 proved catastrophic for Dublin Airport, the business landscape changed almost beyond recognition. The onset of the pandemic has led to an unprecedented fall in passenger volumes and a sharp deterioration in the financial performance of our company. [redacted] The varied 2019 Determination sets out price caps for 2022 and beyond, which are based on a series of regulatory building block assumptions which are no longer relevant or valid. Therefore, we believe that these assumptions should be reviewed for 2022 and beyond.

1.1.3 In chapter 2 of this document we set out our review of the three options for consultation put forward by the Commission and we indicate our recommended approach for 2022 -2024.

1.1.4 Dublin Airport would recommend at this juncture a top-down high-level reassessment of the building blocks underpinning the varied 2019 Determination in the wake of the COVID-19 pandemic. Our rationale for this request and our initial thoughts regarding a reassessment of the building blocks is set out in chapter 2 of this document.

1.1.5 We believe the current determination process can be improved, to provide sufficient flexibility in the regulatory model to respond to the various positive and negative factors that impact growth trends and operations at Dublin Airport. We welcome the publication by the Commission of our white paper containing details of our proposals for suggested changes in the regulatory model going forward. We summarise our current thinking in this regard in chapter 4 of this document.

1.1.6 Our key objective for this forthcoming Interim Review process will be to seek a price path that leads to an efficient level of airport charges, we believe this will necessitate an increase in the price cap to reflect the current business position and to sustain Dublin airport's operations and financial viability.

1.2 Overview of COVID-19 Impacts

1.2.1 The onset of the COVID-19 pandemic has resulted in the collapse of passenger traffic at Dublin Airport, where annual passenger throughput fell to 7.4m in 2020 and latest forecasts would indicate passenger volumes [redacted] in 2021.

1.2.2 Consequently, Dublin Airport's aeronautical and commercial revenues have been drastically reduced since the outbreak of COVID-19.

1.2.3 The impact of the outbreak of the COVID-19 pandemic on Dublin Airport's financial position has been severe. [redacted] Government support packages were also put in place for the airlines.

[redacted]

1.2.5 In 2020, the daa Group was required to increase its debt facilities by €1bn, drawing down some €350m EIB funded debt, raising €500m on the Eurobond market and increasing its revolving credit facility by €150m. This significant decision was undertaken to maintain the Group's operational liquidity during these particularly challenging times.

1.2.6 The events of the last few months have fundamentally changed all the business parameters at Dublin Airport and going forward into 2022 and 2023 the outlook for recovery is uncertain. While the full impact of COVID-19 is yet unknown, it is expected that there will be profound operational and financial implications for Dublin Airport and the aviation sector as a whole continuing into the near future.

1.2.7 The current price cap model at Dublin Airport is based on an average price cap per departing passenger, which in turn is based on the total annual required revenues which Dublin Airport is permitted to earn. This is illustrated below in the table taken from the Commission's 2019 Final Determination.

1.2.8 The impact of the pandemic has proved particularly catastrophic for our aeronautical revenues where based on our latest forecasts it is anticipated that total aeronautical revenues for 2022 will be substantially below the required levels envisaged by the Commission under the 2019 Final Determination. This sharp decline in allowable aeronautical revenues is illustrated in the table below.

TABLE 1 FORECAST VARIANCE IN AERONAUTICAL REVENUES 2022

	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	

Source: Dublin Airport

1.2.9 It should be noted that based on Dublin Airport's latest traffic assumptions for 2022 it is expected that the total revenue yield for aeronautical revenues will only between xx% - xx% of the required total revenues allowed by the Commission for 2022.

[redacted]

1.3 2019 Determination

1.3.1 The Commission published its original Determination on the Maximum Level of Airport Charges at Dublin Airport for 2020-2024 on the 24 October 2019 ("the 2019 Final Determination"). However, following the decision of the 2020 Aviation Appeals Panel, the varied 2019 Determination was published on the 3 July and this in turn was altered following the decision of the 2020 Interim Review in December 2020.

1.3.2 The 2019 Determination, and subsequent varied Determination and Interim Review, is of critical importance for Dublin Airport given that this regulatory decision determines the underlying profitability of the airport and it influences the level of airport development that will be achievable over the remainder of the regulatory period 2020-2024.

1.3.3 As part of the review process leading to the 2019 Determination, Dublin Airport submitted to the Commission its regulatory proposition for the upcoming regulatory period 2020-2024.

1.3.4 Dublin Airport's regulatory proposition was based on a comprehensive review of the efficient operation of the airport to the required service quality and the necessary capital development to accommodate the expected traffic forecast and to grow commercial revenues. The regulatory proposition document contained Dublin Airport's forecasts and evidence on each of the key regulatory building blocks for the period 2020-2024.

1.3.5 Following on from the submission of our regulatory proposition, Dublin Airport provided extensive information and engaged extensively with the Commission and their appointed consultants in relation to each of the regulatory "building blocks" underpinning the Commission's 2019 Determination.

1.3.6 As all parties are aware, the outbreak of COVID-19 has drastically altered the business environment for Dublin Airport and as a result a number of the key assumptions underpinning the regulatory building blocks in the 2019 Determination are no longer valid and hence warrant a high-level reassessment.

1.3.7 Notwithstanding this, it should be stated that we intend to remain committed to our key strategic objectives set out in our 2019 regulatory proposition. We hope to honour our commitment to delivering our proposed capital investment programme while maintaining cost reflective airport charges. Having the necessary infrastructure in place will ensure that we can facilitate a robust and sustainable recovery for our airline customers and the broader aviation industry in Ireland. However, in view of the impact of COVID-19 the timelines for our CIP2020+ programme will have to be extended.

1.3.8 In addition, a number of the features of the 2019 Determination are structured in such a way that they now have unforeseen negative impacts on the 2022 and 2023 price caps in the aftermath of the pandemic e.g. service quality metrics and the capital expenditure reprofiling triggers.

1.4 2022 Price Cap

1.4.1 Dublin Airport believes that the 2022 price cap needs to be reassessed to correct for inaccurate underlying regulatory assumptions and to better reflect the reality of the aviation market at Dublin Airport.

1.4.2 We understand that this will necessitate an increase in the price cap for 2022. While we will seek to focus on the provision of affordable airport charges for our airline customers we also have a statutory responsibility to ensure the financial viability of Dublin Airport under the Aviation Regulation Act, 2001(as amended).

1.4.3 While Dublin Airport understands and appreciates the problems being experienced by our airline customers during this exceptionally difficulty time, we do not believe that artificially low airport charges will serve the broader interests of airlines and passengers in the medium to longer term.

1.4.4 Instead we would like to work with the Commission and our airline customers to look at the options for a price path trajectory that will allow the price cap to increase to the region of €x - €x per passenger to better reflect the average cost of the provision of aeronautical services.

1.4.5 In this context, we would recommend that the Commission reinstates its 5% under/over – recovery provision whereby Dublin Airport could continue to be allowed to carry forward under-recovered (over-recovered) revenues amounting to up to 5% of the total allowed aeronautical revenue. This would allow Dublin Airport greater flexibility in relation to managing any changes in airport charges in the coming years.

2. Review of Options to Respond to COVID-19

2.1 Introduction

2.1.1 Dublin Airport welcomes the Commission's decision to look at possible options for a further review of the 2019 Determination in response to the outbreak of COVID-19. We believe that a regulatory response is essential to address the current misalignment in the 2019 Determination driven by the onset of the pandemic.

2.1.2 Dublin Airport believes that the catastrophic change in our circumstances since the outbreak of COVID-19, provides the substantial grounds necessary to support a second Interim Review of the 2019 Final Determination.

2.2 The Commission's Option 1

2.2.1 Dublin Airport understands that in Option 1 the Commission is proposing to make no change to the existing 2019 Varied Determination at this time.

2.2.2 While we do not accept that it is legitimate to consider this 'do nothing' option given that this would in effect ignore the impact of the COVID-19 crisis and it would allow for the implementation of price caps for 2022-2024 that would be based on a wholly unrealistic passenger volume assumptions.

2.2.3 We believe that option 1 would not be appropriate given that (i) there are a number of immediate issues concerning the 2022 -2024 price caps that need to be addressed and (ii) a number of the regulatory building block assumptions for 2022-2024 contained in the 2019 Final Determination are now significantly misaligned given the impact of the COVID-19 pandemic.

2.2.4 The retention of the varied 2019 Determination for 2022 -2024 would allow for a series of price caps based on incorrect assumptions. It would result in the application of a number of inappropriate capital expenditure reprofiling triggers in the 2022-2024 price caps. These triggers are no longer valid given the changes in the timelines for our capital expenditure programme due to the impact of the COVID-19. If these triggers were to come into effect, they would potentially reduce the annual price cap adding further to the already considerable financial losses faced by the company.

2.2.5 The retention of the varied 2019 Determination for 2022 -2024 would allow for the reinstatement of the reporting and monitoring of a number of service quality metrics currently suspended due to the impact of COVID-19. Our concern would be that we would not be capable of accurately measuring a number of these quality of service metrics while social distancing guidelines remain in place.

2.2.6 However, the fundamental issue is that the regulatory building block assumptions underpinning the price caps for 2022-2024 in the current 2019 Determination have been drastically impacted by the pandemic and are no longer fit for purpose in determining the annual price caps.

2.2.7 To decide to proceed with the option of leaving the varied 2019 Determination unchanged, would we believe, damage the credibility of the current regulatory regime in addition to further undermining the financial viability of Dublin Airport.

2.3 The Commission's Option 2

2.3.1 Dublin Airport understands that in Option 2 the Commission is proposing to hold a review late in 2021 to address a limited number of immediate issues impacting the 2022 price cap as a result of the pandemic.

2.3.2 While Dublin Airport welcomes the Commission's proposal to address the immediate impacts of the COVID-19 outbreak which have already been identified for 2022, we strongly believe that given the high level of uncertainty facing the aviation industry there is a necessity for a broader review of the varied 2019 Determination to reassess the regulatory building block assumptions and to look at the structure of the current regulatory model and its risk allocation.

2.3.3 While we understand that the Commission currently favours this option of a limited Interim Review, it has not yet been determined whether this would just be for 2022 or also for future years, as well as the key elements that are likely to be considered in this review.

2.3.4 If the Commission was to proceed with a limited review, we would be concerned that the outcome of this review could be open to appeal given that the theoretical basis for the decision will be limited.

2.3.5 In addition, we believe by proceeding with a narrow and limited review for 2022, the Commission would not address the misalignment in the regulatory assumptions underpinning the 2022 price cap and this would undermine the validity of our current regulatory regime.

2.4 The Commission's Option 3

2.4.1 Dublin Airport understands that in Option 3 of its proposals the Commission is proposing to hold a full review of the varied 2019 Determination involving a reassessment of the regulatory building block assumptions. While we agree that a full review of the varied 2019 Determination is on balance likely to be necessary going forward, we would be concerned that this is likely to be a lengthy and costly exercise, which would be difficult to undertake at this time due to the uncertain circumstances currently facing the aviation industry.

2.4.2 There would be many challenges at this time in terms of being able to produce accurate forecasts and fully assess the building blocks (though it could consider a range of scenarios).

2.4.3 It is also worth acknowledging the associated costs for all parties when progressing with option 3. This is at a time when revenues are suffering exponentially, with no immediate change forecast in the short-term.

2.5 Dublin Airport Proposed Approach

2.5.1 Dublin Airport welcomes the different options for a potential interim review put forward by the Commission for consultation. The Commission's proposal would suggest that this review would be focused on the regulatory mechanisms such as OPEX pass-through and CAPEX trigger mechanisms rather than the difficult financial situation at the airport and the risks this creates. While the focus of any interim review should be narrow in order to ensure it is manageable, it is also important that the next review focuses on the key issues such as a realignment of the regulatory building blocks and solutions to ensure that the airport remains financially viable.

2.5.2 Overall, we believe that it will be important to mitigate the risk that any interim outcome (which retains the current low pricing) becomes a permanent solution. We affirm that aspects such as capitalising under-recoveries and the higher-level issues detailed in the 'Dublin Airport Regulatory Model Strategic Considerations' paper are still considered by the Commission as part of the next full review. A high-level review of the regulatory building blocks could allow for the required temporary adjustments to the price cap to be made, while still ensuring that further adjustments can be made at a later stage (e.g. for recovery of lost revenue arising from the impact of COVID-19).

2.5.3 While we accept that this approach may not be as robust as a bottom up approach, it will clearly result in a superior outcome than option 1 or option 2 where the resulting price caps for 2022-2024 would be grounded in wholly invalid assumptions.

2.5.4 Therefore, after carefully consideration we believe that an alternative top down approach may be more beneficial to all parties. We would recommend that the Commission carries out a review in 2021 where it would reconsider and realign its price cap for 2022 using a top down approach where it takes account of the impact of COVID-19 on the various regulatory building blocks underpinning the 2022 price cap.

2.5.5 A similar approach could then be followed for the 2023 and 2024 price caps in subsequent years, subject to regulatory consultation and endorsement. Alternatively, if the industry were to significantly recover in the immediate future, a new Determination could be undertaken in 2022 to take effect from 2023 for the following 6-7 years. The merits of this approach are simply that the price cap would be grounded in actual reality of the up to date operational environment of the business.

2.6 Grounds for Second Interim Review

2.6.1 We believe as illustrated in the table below that the following substantial grounds would support a second Interim Review.

Table 2 Dublin Airport Grounds for Interim Review

		[redacted]			
		[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

[redacted]

2.7 Response to Consultation Questions

2.7.1 In its Issues paper CP1/2021, the Commission sets out a series of consultation questions. Dublin Airport's response to these questions is provided in the table below.

TABLE 3 DUBLIN AIRPORT RESPONSE TO COMMISSION QUESTIONS

	Commission Question	Dublin Airport Response
1.	Does the current situation resulting from COVID-19 represent substantial grounds to conduct a 2021 Interim Review of the varied 2019 Determination?	The current situation arising from COVID-19 represents substantial grounds for a 2021 Interim Review. Passenger volumes have fallen to unprecedented low levels and are likely to remain substantially reduced in 2021. Dublin Airport has incurred a substantial negative financial shock arising from the onset of the pandemic and details of this impact are provided in our submission. There has been a fundamental shift in all of the regulatory building blocks underpinning the 2019 Varied Determination.
2.	What time-period should an Interim Review of the varied 2019 Determination cover? (just 2022, or beyond this)	A second Interim Review should be held in 2021 covering the price cap for 2022 as a minimum, with a view to correcting the current misalignment in the regulatory building blocks and in order to provide increased certainty in an effort to aid recovery in the market at Dublin Airport. Should the approach taken for the 2022 price cap reflect the business position this could be rolled forward for the following years should the uncertainty associated with the pandemic remain. Alternatively, if a recovery of the industry was evident, a full Re-Determination could take place in 2022, to take effect from 2023 for a forward 6-7year period.
3.	Is a limited Interim Review, as outlined in Section 6, most appropriate at this time? a. If so, what are the key elements we should consider in this review? b. If we conduct a narrow review and an appeal panel is established, should we wait until the potential appeal process is concluded to publish the draft and final decisions?	a. A more wide-ranging Interim Review is now required given the impact of the COVID-19 outbreak on the regulatory building blocks. This review should take place in 2021 with a view to its implementation in 2022. The current passenger targets in the 2019 Determination need to be realigned in the wake of COVID-19. A top down reassessment of the operating and commercial revenue targets in the 2019 Determination is needed in the wake of COVID-19. The current cost of capital allowance in the 2019 Final Determination should be reassessed in the wake of COVID-19. The current capital investment programme remains appropriate but the timelines in the 2019 Final Determination may need to be reviewed in the wake of COVID-19.

	Commission Question	Dublin Airport Response
		The current risk allocations in the 2019 Determination need to be altered in the wake of the COVID-19 pandemic. b. It is prudent for the Commission to wait until any appeal of the 2020 Interim Review decision is completed before finalising any subsequent second Interim Review decision.
4.	Is a more wide-ranging review required at this time, as discussed in Section 7? If so: a. How should we deal with uncertainty if we conduct a full review? b. What are the key areas that should be considered in such a review?	a. Given the current exceptional circumstances the time may be right for a full review where the Commission would need to examine potential new regulatory approaches where examples may include volume risk mechanisms, a move to a hybrid till, bilateral agreements, shadow pricing and price monitoring. Further detail is outlined in chapter 3 and 4 of this submission. However, as an intermediate solution the Commission should focus on a top-down review for 2022 based on a consideration of the minimum level of revenue that Dublin Airport will require in order to be financially viable and continue to operate, in line with the Commission's objectives. In terms of uncertainty we believe that this can potentially be addressed through the use of scenarios and ranges for key regulatory variables plus the possible introduction of a volume risk mechanism. b. A reassessment of each of the regulatory building blocks, a review of the current approach to regulation and the regulatory price cap model.

3. Key Considerations for Second Interim Review

3.1 Introduction

3.1.1 We believe that it is now necessary to address the immediate impacts of COVID-19 on the annual price cap for 2022 and to implement a number of required adjustments to the 2022-2024 price cap model to ensure the financial viability of Dublin Airport for the remainder of the regulatory determination period.

3.1.2 We believe that a top down approach would ensure that any price cap proposed for 2022 is grounded in analysis and an informed view of current circumstances at the airport. We are therefore proposing that the Commission varies the price cap by making high level adjustments to each building block in the manner described below.

3.1.3 One potential way to consider this is to ensure that the price that is proposed for 2022 allows Dublin Airport to recover sufficient revenue to, at the very minimum, remain financially viable. This approach should deliver a minimum 'financeable' position for Dublin Airport. Financial viability would be the minimum threshold at which prices could be set to enable Dublin Airport to continue to operate, provide services and remain sustainable over the longer term.

3.1.4 This approach would involve:

- Defining minimum thresholds that Dublin Airport needs to meet in terms of financial performance;
- Calculate what level of revenue is needed to get to the minimum thresholds given projected costs in the next year;
- Calculate the price level to achieve this revenue based on the current best estimate of volumes in the next year (or based on a range of scenarios regarding traffic).

3.1.5 We believe that this approach would be preferable particularly given that Dublin Airport's financial position is an element that the Commission would need to consider as part of any Interim Review, since one of its three statutory objectives is 'to enable daa to operate and develop Dublin Airport in a sustainable and financially viable manner.' The type of analysis required for this assessment can also be undertaken in a timely and efficient manner rather than requiring a full detailed bottom-up assessment.

3.1.6 While for this review the Commission could primarily focus on 2022, there could be an option to continue any agreed amendments in principle into 2023 and/or 2024 without conducting another review depending on how the situation evolves over the next few years. Alternatively, pending the outcome of broader market recovery and easing of all travel restrictions, a full determination could be undertaken in 2022 to take effect from 2023 to serve for the following 6 or 7 year period.

3.1.7 We believe that while the focus should be on delivering an overall set of price caps that will enable financial viability for the airport this will require a top down reassessment of the critical regulatory building blocks to ensure that the key assumptions are realigned to reflect the impact of COVID-19. As part of a high-level, top-down assessment the principles and approaches outlined in the following sections could also be considered.

3.2 Passenger Traffic

3.2.1 Passenger traffic has been catastrophically impacted by COVID-19, the original traffic assumptions used in the 2019 Determination for the period 2022-2024 are now defunct and no longer relevant. Given the huge levels of uncertainty remaining in the aviation market, now is not the right time to attempt to forecast passenger traffic for Dublin Airport with any degree of accuracy.

3.2.2 Given the current market conditions we do not believe that a simplified GDP based model will be appropriate to project traffic at Dublin Airport with any degree of accuracy.

3.2.3 Dublin Airport would recommend a collaborative approach to traffic forecasting for the remainder of this regulatory determination period. Dublin Airport would like to propose that a consultation group be established with the airport, the Commission and airlines coming together to examine and consider potential traffic scenarios for the period 2022-2024 and beyond.

3.2.4 This analysis could then be applied to reset the base level of passenger traffic currently used in the regulatory determination, then agreement could potentially be reached on consensus forecasts that could be used to ascertain a reasonable growth rate that could be applied to the base traffic number for the remainder of the regulatory period.

3.2.5 However, given the obvious volatility of the market at present, we would call for the introduction of a volume mechanism to limit the impact of forecast derivations and mitigate the high level of volume risk which the airport is exposed to in these exceptional times.

3.3 Cost of Capital

3.3.1 In regard to the regulated rate of return we believe that the current allowed WACC needs to be reviewed given the impact of the COVID pandemic on the risk profile of the airport.

3.3.2 We understand that given the time constraints it will not be possible to do a full reappraisal of the WACC allowance. We would recommend that the Commission carries out a top down assessment of the current WACC allowance. This should take account of how the uncertain outlook and volatility of the current operating climate for airlines amidst COVID-19 have been reflected in sharp increases in the observed asset betas for publicly traded airport operators (e.g. Aéroports de Paris, Aena, Fraport, Vienna and Zurich) and how this would point to an increase in the cost of equity, all else being equal.

3.3.3 We also accept that a top down reassessment of the Risk-free Rate and the Total Market Return will also be necessary to ensure consistency in approach.

3.3.4 In the varied 2019 Determination the Commission calculated the cost of debt allowance for Dublin Airport, based on the embedded and new debt approach. However, no allowance was made for transaction costs relating to embedded debt, therefore we strongly believe that the current cost of debt range should be adjusted to include this further allowance.

3.3.5 As part of this analysis we recommend that the Commission looks at Dublin Airport's exposure to volume risk, revenue risk, regulatory risk and country-specific risk for 2022 and potentially for the remainder of the regulatory period to 2024, should a broader re-determination not be undertaken. This updated analysis would take account of the impact of COVID-19.

3.3.6 In view of the high degree of market uncertainty currently prevailing we believe that the inclusion of an aiming-up component in the WACC allowance will be critical. The rationale for this aiming up allowance will be the necessity to address asymmetry in incentive mechanisms and /or cost allowances and to support the financial viability of the airport operation.

3.4 Operating Costs

3.4.1 Given the drastic change in the airport's business environment since the publication of the 2019 Determination, it is clear that the regulatory assumptions relating to operating cost allowances contained in this decision are no longer valid.

3.4.2 In the light of the COVID-19 pandemic, there have been significant changes in many lines of operating cost. Dublin Airport has initiated a widespread right-sizing programme, with material implications for staff numbers, payroll costs and work practices. Over recent months, Dublin Airport has also achieved savings across non-staff cost lines. With pay-cuts of x-x% implemented for the first 12 months of the pandemic.

3.4.3 We understand that given the time pressure and the high level of market uncertainty it may not be possible at this juncture to carry out a bottom up assessment of operating cost requirements. We suggest as an alternative that the Commission does a top down appraisal of operating expenditure and allows for an appropriate operating cost per passenger allowance for the remainder of this determination period.

3.4.4 However, as part of any top down assessment, Dublin Airport would like the Commission to be cognisant of the following:

- The high proportion of fixed cost in the airport business
- The lack of public funding support
- Existing efforts to reduce the cost base and right size our airport operation
- Increase in cost related to COVID-19
- Higher level of cost related risk

3.4.5 In particular, we believe that the Commission must take account of the impact of additional COVID-19 costs on the airport's cost base.

Impact of COVID Related Costs

3.4.6 COVID-19 has resulted in new guidelines and health and safety requirements coming from the EU commission (C(2020 3139) and EASA in relation to the restoration of transport services and connectivity and guidance for the management of airline passengers. Dublin Airport is obliged to ensure that these new requirements are met. The key principles/requirements post COVID include:

- Plexi-screens throughout terminals, CID, Piers, Gates etc
- Sanitising stations out terminals, CID, Piers, Gates etc
- Resources allocated to man access into terminals
- Signage – H&S promotional materials
- Floor decals
- Face coverings.

3.4.7 Dublin Airport will continue to work though the current guidelines over the coming months to establish the significant impact (operationally, SQM's and financial) this will have as traffic ramps up later in the year. It should be noted that COVID-19 related legislation and restrictions have been constantly changing over the last 12 months, where Dublin Airport now has an obligation to provide COVID-19 related services. We believe that this will continue into the future, for example recent costs associated with the mandatory hotel quarantine and we are currently assessing costs associated with the Digital Green Certificates and therefore we will require a recovery mechanism for this potential additional cost.

3.4.8 Dublin Airport has appealed to the Valuation Tribunal, the local authority rates uplift for the airport that resulted from the 2019 revaluation. The Valuation Tribunal hearings began in Q3 2020 and ran through Q4. The final days of hearings are now scheduled to take place at the end of June with a decision expected thereafter. Given the significant impact the outcome of this appeal could have on the rates charge for Dublin Airport at up to €xxm p.a. and the fact the outcome of the appeal should be known later in 2021, this cost should be fully remunerated in any reappraisal of the Commission's operating cost allowance.

Voluntary Severance Scheme

3.4.9 In response to the COVID-19 pandemic, daa implemented a Voluntary Severance Scheme which has resulted in a c.1,000 reduction in employee numbers. The implementation of this scheme has created significant restructuring costs given this sizable reduction in staff numbers. At present there is no allowance in the varied 2019 Determination for this expenditure.

3.4.10 As part of any reappraisal of the Commission's operating cost allowance we will be seeking an additional allowance for restructuring costs and in particular the cost of our current Voluntary Severance Scheme.

Operating Cost Pass Through Mechanism

3.4.11 In the 2019 Determination, the Commission introduced an operating cost pass through mechanism. This was to allow for certain unanticipated operating costs outside the control of Dublin Airport, to feed through to the price cap within the regulatory determination period. The intention was that the mechanism would allow for an up-to-date estimate of such costs to adjust the price cap with a one-year lag, through the W-Factor term in the price cap formulae. The final result would be that the operating costs covered by the mechanism would be recovered in full by Dublin Airport.

3.4.12 Dublin Airport strongly welcomed the inclusion of this measure in the 2019 Determination. However, this mechanism has currently being suspended as part of the 2020 Interim Review.

3.4.13 We are seeking to have this operating cost pass through mechanism reinstated as part of the next review given the importance of this mechanism for ensuring that the airport is appropriately remunerated for all efficiently incurred operating costs.

3.5 Commercial Revenues

3.5.1 Dublin Airport's non-aeronautical businesses have been decimated by the impact of COVID-19, therefore the original assumptions made in the 2019 Determination regarding commercial revenues are no longer valid and need to be reassessed as part of the next review.

3.5.2 Given the time constraints and the complexities of carrying out a bottom up assessment we suggest as an alternative a top down appraisal based on an estimate of an efficient revenue target per passenger.

3.5.3 In regard to the Commission's rolling incentive scheme for commercial revenues we believe that this is an important mechanism for encouraging and incentivising strong commercial performance at the airport. We would therefore be strongly in favour of the retention of this scheme.

3.5.4 We understand that currently the operation of this mechanism has been skewed by the sharp drop in passenger volumes, but this is a short-term issue which can be addressed with the rebalancing of the passenger traffic base.

3.6 Capital Expenditure

3.6.1 While Dublin Airport remains committed to our medium-term goal of developing the airport capacity and infrastructure to deal with 40 million passengers per annum as set out in our Capital Investment Programme (CIP2020+), we understand that the COVID-19 pandemic has impacted the time frame for this development.

3.6.2 We would recommend as part of the next review a top down reassessment of the RAB for Dublin Airport. We believe that the capital expenditure allowances for PACE projects and the core capital expenditure contained in CIP2020+ should be retained. However, we would accept that the capital allowances for the capacity enhancing projects contained in CIP2020+ should be temporarily removed subject to further reappraisal and consultation with airport users in 2023.

3.6.3 It will be important for the Commission to set out its thinking regarding how any required RAB adjustments will be implemented.

3.6.4 Given the disruption to construction arising from the pandemic and the continued high level of uncertainty in the market, we would suggest that the removal of the capital reprofiling triggers should be for the full duration of this current regulatory determination period.

3.6.5 The consultation introduced in the initial Interim Review of the 2019 Determination requires projects over €4m to be consulted on with Stakeholders. While we support this principle of consultation, the threshold should be increased to €10m. This is closer aligned to Dublin Airports own internal governance process which considers projects over €15m to be 'high/significant'. The investment in 2020, excluding HBS, which amounted to under €60m demonstrates that Dublin Airport is already managing its capex investment in response to the COVID-19 impact. This investment is reviewed through Dublin Airports own internal governance process and only essential and safety critical projects are being delivered.

3.6.6 The projects in CIP 2020 went through a very detailed consultation process and there is also €1.3bn of CIP 2020 capital investment that is subject to its own StageGate consultation process. Introducing another detailed consultation process to the value of €4m would be a waste of internal resources for capital projects that are already prioritised to safety critical projects within the Dublin Airport internal governance process.

3.7 Financeability

3.7.1 Dublin Airport's financial position deteriorated sharply following the outbreak of COVID-19. In 2020, the daa Group was required to increase its debt facilities by €1bn, drawing down €350m EIB funded debt, raising €500m on the Eurobond market and increasing its revolving credit facility by €150m.These current difficulties are likely to extend into the immediate future and our industry will now continue to face unprecedented challenges for an extended period.

3.7.2 Ensuring the financial viability of Dublin Airport remains one of key statutory obligations for the Commission. We suggest that this needs to be a priority in the second interim review given the company's increased debt levels, reduced passenger levels and increased uncertainty and variability of revenues arising from the COVID-19 pandemic.

3.7.3 Therefore, in carrying out its top down assessment of the regulatory building blocks, the Commission must ensure that Dublin Airport is allowed to recover sufficient revenue to, at the very minimum, remain financially viable. Financial viability would be the minimum threshold at which prices could be set to enable Dublin Airport to continue to operate, provide services and remain sustainable over the longer term.

3.8 Service Quality Monitoring

3.8.1 While it may not be a regulatory building block, service quality and in particular the service quality metrics imposed by the Commission are an important element of the current regulatory determination.

3.8.2 The COVID-19 pandemic has had a drastic impact on service quality monitoring at Dublin Airport. We greatly appreciated the Commission's decision to suspend the Quality of Service Penalties in 2020 as detailed under CN2/2020 and CN6/2020, we believe this was the only pragmatic option available to the Commission at the time. As-ever Dublin Airport remains committed to delivering the utmost service provision for the travelling public and, as such, continue to fully embrace the principles of the Service Quality Monitoring. This is demonstrated by the consistent monthly and quarterly reporting to the Commission throughout the pandemic.

3.8.3 We strongly believe that any price cap penalties associated with both the objective and subjective SQM measures should continue to be suspended for 2022 given the lack of market stability. With the current service quality measures being reassessed as to reflect this.

Passenger Satisfaction (Objective) SQMs

3.8.4 The objective service quality metrics are broadly informed by quantitative data and based on numeric data and timing targets. These continue to be significantly impacted by COVID-19 Health and Safety requirements. Although the passenger volumes are currently at unprecedented lows, the security queue times, wait times for passengers requiring additional assistance, baggage handling belt and availability of airport assets have all been significantly impacted by the pandemic. Hence, it would be impractical to reinstate targets and penalties at a time of significant operational fluctuation. Dublin Airport's preference is to continue to report as per the 2019 varied Determination objective service quality metrics (albeit with no penalties associated) until a greater understanding of the 'new normal' operating requirements is established.

Passenger Satisfaction (Subjective) SQMs

3.8.5 The COVID-19 crisis has severely impacted the passenger research programme at Dublin Airport. Currently the full research programme is suspended, and it now seems unlikely that this programme will resume this year, even partially. However, Dublin Airport propose to gradually re-build the programme starting in Q3 2021, based on regular waves that will provide sufficient data to continue to understand and maintain the passenger experience.

3.8.6 In re-establishing the research programme, the two most important areas to be considered are the robustness and representativeness of the sample – gathering enough interviews in a way that is representative of the airport population. This is to ensure the most fair and accurate overview of performance is provided. While COVID-19 safety restrictions and low passenger numbers continue to be a challenge in establishing an appropriate sample, Dublin Airport does have recommendations for the optimum way to continue reporting on the passenger experience at this time and would be happy to engage with the Commission on this over the coming months.

Service Quality Metrics Application

3.8.7 Any detailed review of the Service Quality Metrics should move from the concept of penal application, if prescribed targets are not met, to Service Quality Rebates and Bonuses, thus incentivising financial-performance and enhanced customer outcomes. This would be aligned with Ofwats application of the Outcome Delivery Incentive (ODI) framework and is similar to what Heathrow has proposed its Service Quality Rebates and Bonuses (SQRB) framework should move to under the H7 review.

3.9 Changes to the Regulatory Model

3.9.1 We also believe that it will be important that in the forthcoming second Interim Review that the Commission looks at potential changes to the current regulatory model to deal with the increased burden of risk and the unprecedented loss of income experienced by Dublin Airport as a result of the onset of the pandemic. In particular it should consider the issues set out in Dublin Airport's response to the last Interim Review[1]—e.g. regarding the need to create a long-term regulatory framework that is less prescriptive and reflects the uncertainties in the market.

Volume Risk Mechanism

3.9.2 In the current regulatory model, Dublin Airport bears all the risk relating to the passenger volumes outturns differing from the traffic forecasts used by the Commission in its price determination.

3.9.3 Volume risk is a key factor in the current incentive based regulatory model. Volume forecasts are at the core of the regulatory model, through their relationship between operating costs, capital expenditure, commercial revenues and the price cap calculation. Over the course of a determination period, Dublin Airport can be impacted positively or negatively by volume risk which results in volume outcomes diverging from the traffic forecast levels.

3.9.4 On this basis to date Dublin Airport opted to retain volume risk given that it was considered best placed to manage deviations in passenger traffic over the course of a regulatory determination period. This position was supported by the Commission.

3.9.5 However recent months have shown the devastating impact on the airport business of an unexpected and sustained fall in traffic volumes beyond the recognised norms. Dublin Airport is concerned that traffic volumes are likely to remain highly volatile over the remaining duration of the regulatory determination period and that forecasting traffic patterns with any degree of accuracy is going to become exceedingly difficult. This in turn will result in an unprecedented level of risk for the company.

3.9.6 On this basis, Dublin Airport would request that the Commission would consider looking at the introduction into the regulatory formula of a volume risk mechanism for the remainder of the current regulatory period that could mitigate certain aspects of this high-level risk.

[1] Dublin Airport (2021), 'Regulatory Model Strategic Considerations', 5 March.

3.9.7 Dublin Airport would recommend that the Commission considers the potential use of a volume risk adjustment mechanism where a dead band can be set allowing certain parameters of volume fluctuation to still be permitted (10%+/-) in order to preserve the incentivisation properties of the regulatory model. However, an adjustment mechanism could then be added to the price cap formula which would allow for changes to the annual price cap where volume fluctuations exceeded the dead band in either direction.

3.9.8 We note that Heathrow Airport has made a similar request to their regulator the CAA for a risk sharing mechanism and the CAA has just confirmed its intention to introduce new arrangements for traffic or revenue risk sharing as part of its next regulatory decision for Heathrow Airport which is due to take effect in 2022[2].

RAB Profile Adjustment

3.9.9 As a result of the outbreak of COVID-19 Dublin Airport is expected to continue to substantially underperform against the price caps in 2021 and 2022 with dramatic losses in financial earnings across the aeronautical and commercial sectors of the business.

3.9.10 Dublin Airport will likely fail to generate the allowed regulated rate of return of 4.2% on our regulated assets and the outlook going forward for the remainder of the current regulatory period is currently negative.

3.9.11 Dublin Airport forecasts a cumulative EBITDA shortfall of some €xxm to €xxm over 2020 and 2021 compared to what was allowed in the 2019 Determination. We fully support the concept of incentive regulation and appreciate that the regulated entity is currently assigned full risk under the regulatory framework. In the last control period, Dublin Airport significantly outperformed the regulatory targets and retained the benefits of the outperformance for the duration of that control period. However, the current quantum of underperformance is exceptional and concerning in relation to the ongoing financial viability of the airport operations. We would argue that the current deviation is significantly outside the parameters of normal regulatory risk assignment.

3.9.12 We request that the Commission consider a mechanism for allowing the future recovery of the exceptional portion of the 2020-2022 EBITDA shortfall. Utility regulation normally treats these exceptional deviations similar to the introduction of a new asset to the capital base and allows the recovery over a typical asset life (15

[2] CAA, Economic regulation of Heathrow Airport Limited: Consultation on the Way Forward, April 2021.

years for example). This type of mechanism avoids any immediate impact to price caps/airport charges and smooths the recovery over a longer period, thus flattening any charging spikes in a particular year.

3.9.13 In addition it should be noted that the UK airport regulator, the CAA has just confirmed that it will allow for a regulatory intervention, in the form of a RAB adjustment of £300 million, which will come into effect from 2022 and which will compensate the airport for loses in revenues and failure to recover depreciation costs over the period 2020-2021 due to COVID-19. [3]

3.9.14 The CAA is also considering its options for dealing with the impact of the pandemic on the air traffic control sector where it is currently also consulting on the key issues regarding its approach to the next NERL price controls in light of the impact of COVID-19. The CAA has said that in the short term it would adapt the current regulatory framework to take account of the impact of COVID-19 on the sector in 2020-2021 and in the longer term it would develop the future regulatory framework and price control arrangements from 2022 in a way that is flexible to uncertainty about future costs and the speed of traffic recovery [4].

3.9.15 Dublin Airport believes that a RAB adjustment mechanism is a necessary component which should be added to the Commission's current regulatory model. There is accepted precedent for the inclusion of such a measure.

3.9.16 This could potentially enable a smoothing of the price cap in the short to medium term while also allowing Dublin Airport full remuneration on its assets over the longer term including the recovery of financial losses arising from the impact of COVID-19.

[3] CAA, Economic regulation of Heathrow Airport Limited: response to its request for a covid-19 related RAB adjustment, April 2021.

[4] CAA, Economic regulation of NATS (En Route) plc: Update on approach to the next price control review, March 2021.

4. Regulatory Model Considerations for Interim Review

4.1 Regulatory Model Strategic Considerations

4.1.1 Dublin Airport welcomes the decision by the Commission to publish our white paper 'Regulatory Model Strategic Considerations', and to consult on a number of proposals put forward by Dublin Airport for potential changes to the current regulatory model including a shadow price cap with negotiated settlements and price monitoring .

4.2 Alternative Regulatory Approaches

Shadow Price Cap with Negotiated Settlements

4.2.1 In reviewing the current regulatory model, Dublin Airport believes that consideration should be given to potential introduction of a Shadow Price model with negotiated settlements. Under this alternative approach the airport would seek to reach agreement on price, service quality and investment outcomes directly with airlines as part of contracts for a multi-year period. These agreements could either be formed individually with each airline (bilateral commitments) or as a single contract that applies to all airlines (multilateral commitments).

4.2.2 The Commission would still have an important role in this regulatory regime in terms of setting a shadow price control—i.e. a price cap that would apply in case there is no agreement between the airport and airline(s). One alternative is for the Commission to set out the shadow price control in advance and then the airport's negotiations with users would occur within this framework. Airlines and the airport could form agreements with parameters that differ from this shadow price control, but if they do not come to an agreement, then the Commission's shadow price cap would be applied. This approach has been used at Gatwick Airport since 2014.

4.2.3 Another approach would be where the regulator establishes a shadow price cap only if the airport is not able to reach agreement with its users. This is the regulatory regime in place at Copenhagen Airport, which is based on a codified framework of commercial negotiations between Copenhagen and its main airlines. The regime falls back to provisions for a regulator-set price cap if agreement cannot be reached.

4.2.4 In this regulatory regime, the Commission would still establish, guide and approve the process by which the outcomes are determined. For instance, the Commission would need to set out the principles and process for negotiations, potentially approve the final terms of the negotiations, and monitor compliance and outcomes on an ongoing basis to ensure that the outcomes are in the interests of end users.

4.2.5 As noted in our white paper 'Regulatory Model Strategic Considerations' while our current regulatory legislation is aligned with the price cap model, the shadow price control negotiated settlements approach could be applied within this existing legislative framework.

Price Monitoring

4.2.6 Dublin Airport also suggests that a price monitoring model could be an alternative approach which could be considered where annual consultations and negotiations between the airport and users regarding the key outcomes for each year could potentially be introduced. While the Commission would still set out the information requirements and principles for pricing upfront, the Commission would leave the company and airlines to determine the target outcome. The airport would be required to publish price, service quality and/or financial information each year.

4.2.7 There are typically two roles the Commission could take regarding this approach: i) a more proactive role monitoring information; or ii) a more reactive role, only intervening if there is a complaint from a market participant.

4.2.8 For example, in New Zealand, Auckland, Christchurch and Wellington International Airports are subject to an information disclosure regime. While the airports are required to publish information according to guidelines and templates set out by the regulator, the regulator does not formally monitor this information each year and only intervenes if there is a formal complaint from a market participant about the company's behaviour. There is therefore a threat of more intrusive price regulation in the future if the airport does not deliver outcomes in line with consumers' interests.

4.2.9 In other cases, the company may negotiate with its customers and the regulator monitors outcomes on an ongoing basis to ensure the company is acting in line with consumers' interests. If not, the regulator may intervene. For example, in Australia, the Australian Competition and Consumer Commission (ACCC) monitors the airports' prices, financial performance, and quality of service and issues annual reports, including a comparison of airports' performance across certain KPIs on the basis of information submitted by the airports.

4.2.10 Dublin Airport accepts that this approach is not an option for the current review, given that it would require a legislative amendment, but we believe that this approach could be considered going forward.

4.3 Bilateral Agreements

4.3.1 Dublin Airport believes that it may be possible to explore the idea of bilateral agreements between airport users and the airport regarding airport charges as a potential alternative to the current system of consultation on annual airport charges.

4.3.2 Dublin Airport accepts that consideration would need to be given to any legal implications arising from the decision of the European Court of Justice in the case of Deutsche Lufthansa Ag v Land Berlin. We do however believe that provided any charging agreement fulfilled the requirements of the Airport Charges Directive, was open to scrutiny by the Commission and was constructed in accordance with the principles of transparency and non-discrimination then such an agreement could be legally permissible.

TABLE 6 DUBLIN AIRPORT RESPONSE TO COMMISSION QUESTIONS

	Commission Question	Dublin Airport Response
i.	Do airport users have an interest in pursuing bilateral contracts as outlined by Dublin Airport?	N/A for the Dublin Airport.
ii.	Is there a role for CAR in relation to the possibility of bilateral contracts and if so, what would that role be?	here will be a role for the Commission to oversee and supervise the construction and application of any charging agreements.
iii.	How might bilateral contracts fit within the current regulatory framework under both the 2001 Act and the ACD, having regard to the ECJ judgement and related material?	All bilateral agreements must fulfil the requirements of the Airport Charges Directive, be open to scrutiny by the Commission and be constructed in accordance with the principles of transparency and non-discrimination.
iv.	What benefits, if any, would these contracts provide relative to the current situation?	They would give the airport greater scope to flex and set airport charges in a manner more in keeping with the needs of its airline customers.

5. Conclusion

5.1.1 The assumptions in the varied 2019 Determination regarding passenger numbers and prices no longer reflect the realities at Dublin Airport. As a result, there is a need for a further Interim Review of the 2019 Determination. A top-down assessment seems appropriate and proportionate at this stage given the degree of uncertainty and the likelihood that any forecasts will need to be subsequently revised.

5.1.2 We believe that the scale of the reduction in traffic and changes in the market are not reflected by the Commission's proposals to amend certain mechanisms in the price control formula (e.g. service quality metrics, operating cost pass-through). A focused top-down review for 2022 makes sense, but the focus must be on the important issues.

5.1.3 The re-set of the price control for 2022 (and potentially 2023/24) could be based on a consideration of the minimum level of revenue that Dublin Airport requires in order to be financially viable and continue to operate, in line with the Commission's objectives. The analysis required to understand the relevant price path in line with this methodology can be undertaken in a limited timeframe and would ensure that the proposed price caps are grounded in market realities.