RYANAIR'S SUBMISSION RE CP7/2007 ON THE IMPLEMENTATION OF AN INCREASED LEVY BY THE C.A.R.

15 November 2007

Introduction

1. The Commission for Aviation Regulation's (CAR's) proposals for a review of the current fees and levy regime, is a covert attempt by the CAR to further increase fees and charges to airline passengers, in order to cover its rising costs, its unjustified expenditure, its overstaffing and its excessive pay increases, which have seen average salaries almost double from €48,000 in 2002 to a budget of over €87,000 in the current year. These proposals fail to provide any justification or transparency for these excessive increases and highlight the gross inefficiency of the CAR.

2. The Commission's claim that it needs *"adequate funding for the defence of legal challenges"* is untenable, when these legal challenges arise from the CAR's own incompetence and its failure to apply the rules and regulations fairly or in accordance with the legislation. It is a fact that the CAR failed to recover over €3m in legal fees in 2002 and 2003 following its successful defence of a challenge by Aer Rianta/DAA to its first determination. These costs should have been recovered directly from the Aer Rianta/DAA. However, the Commission instead chose to settle the case under threat of an appeal by Aer Rianta/DAA and pay these excessive costs, which were then passed on to airline passengers through the airport levy. Airport passengers are in essence paying the penalty for the CAR's failure and incompetence.

3. The Commission's attempt to justify some of these increases as being costs associated with its new consumer protection role is totally unjustified. The Commission's own figures show that it receives less than one complaint every two days under this consumer protection role. The miniscule level of activity associated with this function does not justify either the <u>three full time</u> employees or a budget of over €507,000 in 2008. This equates to an absurd cost of €2,805 per complaint if spread over the 181 EU261 complaints received by the CAR in 2006. The cost of responding to these complaints should be less than €10 per complaint.

4. The Commission's claim that there has been a "high level of activity" across all functional areas is simply untrue. There have been just two reviews of Dublin Airport charges - in 2001 and 2005, and an interim review in 2007. There will not be another review until 2009. It is therefore difficult to understand what the 21 CAR staff (at a payroll cost of over €1.8m) will do during years – such as 2008 - when there is no airport pricing review.

5. Under the current levy system, levies are set for each individual area to cover the expected costs of administration of that area. What the Commission now proposes is that there will be no adjustments made in future unless there is a difference between the aggregate costs

and aggregate revenues of the Commission. This means that the Commission's inefficiencies and high costs in certain areas will now be subsidised by overcharging in other areas. This system is entirely unacceptable and will further reward the CAR for its continuing inefficiency and high costs.

6. In terms of the structure of the levies, the framework by which the CAR intends to allocate its costs between individual functions is less important overall than the fundamental issue of cost transparency and whether the CAR is being efficient and effective. However the costs are allocated, the IAA and DAA (and the other airports) will effectively be allowed to fully pass these inflated and excessive costs onto users. Airlines and the travelling public will be forced to meet the full costs of the CAR's activities, despite the enormous overstaffing and inefficiency demonstrated below.

Background

7. The CAR has been abysmal at controlling costs or providing an efficient regulatory system for Ireland's airline passenger users. Over the past 5 years (2002-2006) the CAR's accounts show that:

- **Its payroll has risen by 83%** (4 times more than the national wage agreement).
- **Its payments to consultants have risen over threefold.**
- **The cost of unnecessary slot co-ordination has doubled.**
- **Total costs over the period have more than doubled from €1.8m to almost €4m** (excluding the exceptional Aer Rianta/DAA legal fees in 2002 and 2003).

CAR – Revenues and Costs (excl. legal fees) 2002 - 2006						
	'02	*'03*	*'04*	*'05*	*'06*	*'07 (Est)*
Income	3,951	5,636	3,550	1,353	3,127	
Costs						
Salaries	778	1,215	1,313	1,160	1,423	1,820
Consultants	129	428	465	949	539	921
Slot Co-Or	165	202	190	227	329	335
Advtsg. + PR	62	24	77	85	66	73
Other	696	675	678	696	814	
Total Costs	**1,830**	**2,544**	**2,723**	**3,117**	**3,171**	**3,897**
Legal Fees	2,059	1,413	164	626	771	-
Costs Incl Legal	3,889	3,957	2,887	3,743	3,942	3,897

8. Over this five year period the number of full time personal (FTE's) employed by the CAR has risen from 16 in 2002 to 21 in the current year, and the average salary has exploded from €48,000 in 2002 to a current year estimate of €87,000 per person.

Year	Personnel (avg in year)	Payroll (total)	Avg Salary €'000
2002	16	€778,542	€48.6
2003	17	€1,215,224	€71.4
2004	18	€1,313,590	€72.9
2005	20	€1,160,336	€58.0
2006	20	€1,423,118	€71.1
2007	21 (est.)	€1,820,605 (bud)	€86.6

9. At a time when the CAR has issued airport price determinations in 2001, 2005 and a revised determination in 2007, and will not make another airport charge review determination until 2009, this level of over-staffing and this doubling of salaries is grossly excessive and unjustified. Airline passengers are being asked to fund increasing levies and charges from the CAR to pay for over staffing, massively inflated salaries and public sector levels of inefficiency and featherbedding. Even civil servants under benchmarking have not seen their average salaries double over the past 5 years and these figures conclusively demonstrate that the CAR is inefficient and is awarding itself excessive pay increases at a time when average airline fares continue to fall.

Proposed Fees and Levies for 2008

Airport Charges

10. The CAR states in Section 4.1 that the cost of regulating airport charges in 2008 is estimated at over €775,000. Given that no airport charges determination is being made in 2008, this figure is impossible to justify. The CAR has provided no analysis of these estimated costs and what these people will do during 2008, when no airport charges review or determination is planned. The scale of this levy during a period when no airport charges determination is scheduled is grossly excessive and should not be passed on to consumers through an airport levy.

Airport Terminal Charges

11. The CAR provides no basis or justification in Section 4.2 for the proposed levy to be charged to the IAA (which will be directly passed on to airline passengers), which is estimated at €49,000 in 2008. It therefore lacks transparency. Moreover, this cost has to be seen in the context of the above comments regarding the gross inefficiency and high costs of the CAR. This fee should therefore be significantly reduced.

Slot Allocation

12. There is no explanation provided by the CAR in Section 4.3 for the cost of *"implementing EU regulations"* in relation to slot allocation, which is estimated at over €325,000 in 2008. Nor is there any explanation as to why this cost has more than doubled over the last five years, despite the fact that Dublin Airport is the only slot regulated airport in the State, and does not require slot regulation. The CAR has already lost a High Court case for misapplying the EU Slot Regulations and its subsequent decision to re-impose slot coordination has also been challenged.

13. There is no justification for this levy and nor should it be passed on to airline users who derive no benefit whatsoever from this unnecessary process at Dublin Airport. Over the last 18 months Ryanair has added 12 new aircraft and over 50 new routes at Dublin Airport. If Dublin Airport was slot blocked or congested, then it would not have been possible to add these new aircraft and routes. Ryanair strongly believes that the CAR should not be allowed to levy any fees in relation to slot allocation at Dublin Airport, when this process in unnecessary.

14. The current levy, which is applied only to Irish registered carriers, is also unfairly apportioned. These costs include both CAR's inefficient costs and also those of its contract with ACL. In the UK, ACL's costs are met in part by the carriers who are on the Board of ACL (mostly UK airlines) but mainly through a charge to the airports relating largely to the number of slots allocated at each airport. So long as the level of cost can be justified in terms of cost effectiveness (which in this case they cannot) then it would be more appropriate for these costs to be levied on the DAA for pass through to users in proportion to slots held in Dublin.

Ground Handling

15. The CAR provides no basis or justification for the proposed ground handling fees in Section 4.4. These fees therefore lack transparency. Moreover, the cost of this activity must be seen in the context of the above comments regarding the gross inefficiency and high costs of the CAR. These fees should therefore be significantly reduced.

Air Carrier Licensing

16. The CAR provides no basis or justification for the proposed license fees in Section 4.5. These fees therefore lack transparency. Moreover, the cost of this activity must be seen in the context of the above comments regarding the gross inefficiency and high costs of the CAR. These fees should therefore be significantly reduced.

Travel Trade Licensing

17. Ryanair has no comment to make on Travel Trade Licensing.

Consumer Proection

18. The CAR's estimate of over €505,000 in Section 4.7 to cover the costs of implementing EC regulations, including EU261, in 2008 is ludicrous, excessive and entirely unjustified. This is the most extreme example of empire building, waste and featherbedding by the CAR. The CAR's own figures confirm that it received a total of only 130 complaints in 2005 and a total of just 181 in 2006. **This means that the CAR receives less than 1 complaint every two days from consumers under EU261.**

19. The overwhelming majority of these complaints are dealt with by sending a letter to the relevant airline concerned and the relevant airline then deals with the matter directly with the passenger. There is no requirement or justification for 3 full-time staff in the CAR to manage the receipt of 1 letter every two days. The present estimate of €507,000 equates to an average cost over €2,800 per letter for each of the 181 letters received by the Commission in this section during 2006. There is no justification for this excessive budget, nor for 3 full-time employees in the CAR to handle this tiny volume of work. Ryanair believes that any one of the 21 existing CAR employees who are tasked with dealing with Dublin Airport charges, and who are clearly underemployed in 2008 (and most other years when there is no airport review) could easily handle this correspondence or in fact it could be delegated to an existing secretarial function without any such waste and excessive cost.

20. The scale of the budget proposed by the CAR is entirely disproportionate to the insignificant number of complaints received by the CAR in respect of EU261 legislation.

Central Levy

21. There is no justification for the proposed central levy in Section 4.8 of €2.33m in 2008. The shortfall between the Commission's total costs in 2008 and the income the Commission expects to collect from fees and levies, should be addressed by reducing the Commission's bloated headcount and costs, and by eliminating over inflated budgets such as the €500,000 on EU 261, the more than €900,000 planned expenditure on "advisors" and by reducing the excessive headcount and inflated payroll in the CAR.

Ryanair's Recommendations

1. The CAR's excessive staffing be reduced from 21 FTE's this year to 10 before the end of 2008 (saving over €800,000 p.a.)

2. Future pay increases at the CAR should be capped at the levels permitted by National Wage Agreements or approximately 5% per annum.

3. The CAR's consultancy budget should be set at zero during each of those years when there is no airport charges determination, and capped at €1m per annum during those years where there is an airport charges determination (saving over €900,000 p.a.). This would allow the CAR to maintain minimum small core of staff and to contract in outside resources during those years (every 5th year) when there is scheduled to be an airport charges review and determination.

4. The office of the CAR should be relocated from the current expensive and unnecessary location in central Dublin to more modest and appropriate accommodation at or close to Dublin Airport. Given that the major functions of the CAR is the determination of airport charges, and the oversight of slot regulation at Dublin Airport, it is more appropriate for the Commission to be based at or close to Dublin Airport and this would further reduce costs.

Ryanair believes that these simple measures would allow the Commission's current annual budget of €4m per annum to be reduced by over 50% to under €2m p.a. which would deliver more efficient and effective regulation, while at the same time also reducing the CAR's excessive charges to Irish airline passengers by 50%. These simple measures would bring about an end to the huge waste, excessive costs, bloated headcount, inflated salaries and waste which have characterised the operation of the CAR over the last 5 years.