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03<sup>rd</sup> July 2007

Mr. John Spicer  
Commission for Aviation Regulation  
3<sup>rd</sup> Floor  
Alexandra House  
Earlsfort Terrace  
Dublin 2

**RE: Commission Paper CP5/2007 – Correction to Submission of 21 June**

Dear Mr. Spicer,


It has come to our attention that there is an error in our recent Submission of 21<sup>st</sup> June 2007 on CP5/2007.

Please note that the reference in the second paragraph of our Submission to the ‘“peak” 90 minutes window’ should in fact refer to the ‘“peak” 60 minute window’ (i.e. 6am to 7am local time). For clarity, this paragraph should now read as follows:

“In particular, we consider that a key part of the plan agreed by airport users was the need to ensure that a minimum of 70% and preferably 80% of Aer Lingus’ Dublin based shorthaul aircraft are able to depart during the morning “peak” 60 minute window (i.e. 6am to 7am local time).”

Please find attached our amended Submission containing the above text which I would be grateful if you could place on your website in substitution for the version previously provided.

Yours sincerely,

  
Laurence Gourley  
Company Secretary and Manager Legal Affairs

# **Submission of Aer Lingus to the Draft Determination on the Maximum Levels of Airport Charges at Dublin Airport (CP5/2007)**

## **1. THE SPECIFICATION OF T2**

For the reasons outlined in detail in our previous submissions, Aer Lingus wishes to reiterate its support for Arup's design schedule for T2 as reflected in DAA's CIP.

In particular, we consider that a key part of the plan agreed by airport users was the need to ensure that a minimum of 70% and preferably 80% of Aer Lingus' Dublin based shorthaul aircraft are able to depart during the morning "peak" 60 minute window (i.e. 6am to 7am local time).

This specification has been the result of a detailed consultation with the airport users which was fair and balanced. We believe this process is exactly what airports should go through in determining the level of future facilities that should be provided.

Given this fact, in our view the Commission would be wrong to alter the specification of T2 as part of its determination as this would fail to provide airport users with the facilities they need.

The adjustments to T2 proposed by Aviation Economics have the effect of reducing the proposed peak capacity, have not been part of any user consultation and, specifically, have not been agreed by Aer Lingus. We do not consider these amendments to be reasonable.

It is not possible to justify adjustments to the peak hour on the basis of simplistic assumptions about some flights being leisure-orientated and hence time insensitive. This ignores the operational imperatives of a low cost carrier model such as that operated by Aer Lingus. Our business model is focused on production costs. Maximizing aircraft utilization is a key element in delivering low unit seat costs. It is in this context that there is an imperative to dispatch aircraft from base at the earliest time consistent with price-led market demand

We further note that the consultation process was carried out on the basis that there would be no differential pricing between terminals of any kind. For DAA to change its position on this matter, or be forced to change its position by the Commission would invalidate the consultation process and throw user support for T2 into doubt.

## **2. DIFFERENTIAL AND PEAK PRICING FOR T2**

Aer Lingus notes that the Commission will not be requiring DAA to introduce either differential or peak pricing for T2 at this review. Nevertheless, the Commission indicates that it considers there are strong efficiency arguments in favour of both propositions and that it would encourage DAA to consider the introduction of such charges.

Aer Lingus is strongly opposed to both differential and peak charging for T2. In that context, the efficiency arguments relied on by the Commission in the case of T2 are misplaced because of two fundamental misunderstandings.

The first is the way the Commission considers T2 as a distinct and separate asset that should be priced independently of the system that is Dublin Airport as a whole. The second is the relevance to pricing of that fact that an airline may wish to locate solely within one (or other) terminal.

As was made clear in our response to CP1/2007, T2 is specified to offer the same standard of service as T1. This was also confirmed in DAA's response to the same consultation. In our response we stated that for that reason alone there is no justification whatsoever for making separate charges for T1 and T2.

But the fundamental economic point that the Commission seems not to have grasped is that *because* T2 is specified to the same standard of service as T1 it is, in an economic sense, no more than an expansion of existing terminal capacity in general at Dublin. The fact that T2 happens to be, physically, a separate building is irrelevant. In terms of ultimate outcome, building T2 is no different to raising T1 to the ground and building one new larger terminal to accommodate all airport traffic. It is simply that building the new T2 is a far more efficient and less disruptive way of expanding the airport's capacity.

Consequently T1 and T2 must be viewed as substitutes in the same way that the eastern and western halves of one very large terminal of uniform quality would be substitutes. The inevitable consequence of this is that T1 and T2 should be treated as homogenous terminal capacity and priced identically. There is no justification for a price differential between the two terminals, nor on this basis for a *differential* in peak pricing between them.

The second flaw in the Commission's thinking is to suggest that because an airline might want to locate all its operations in one terminal that this might justify charging it more. This argument confuses the value of centralisation for an airline with the value of exclusivity. If an airline were to seek *exclusive* use of T2 then there might be a cost to DAA in terms of a less efficient use of terminal capacity for Dublin Airport overall. There could be a justification for charging the airline for exclusivity. But there is no proposal for exclusive use of either terminal.

The only proposition under discussion is that, given the physical separation of Dublin's terminal capacity into two parts, it is more efficient for an airline to locate wholly in one part or the other. Whether DAA can offer this facility to an airline may affect the *value* DAA has to offer, but does not have an impact on DAA's costs. Therefore, the price of terminal capacity should be independent of this matter in a regulated environment.

#### **A. FURTHER COMMENTS ON DIFFERENTIAL PRICING**

Aer Lingus considers that the Commission's comments in CP5/2007 misrepresent the company's views on the issue of differential pricing. This is not in our view a debate regarding the principle of differential charging, but rather whether there is any justification for it in practice in this case.

The Commission implicitly bundles Aer Lingus' response in with those users who it alleges "would prefer better facilities" and "favour uniform pricing". This is a complete travesty of our position.

Our response to CP1/2007 made clear first and foremost that T2 is specified to provide the same quality of service as T1 (IATA Service Level C). Consequently there is no justification whatsoever differential pricing. If DAA were to attempt to charge a different price it would in our view be in severe danger of falling foul of existing competition rules. We note, however, that DAA it has made clear in its response that it has no wish to levy differential charges.

Secondly, additional terminal capacity is sorely needed at Dublin Airport. T2 is the agreed solution to that problem. This solution comes at a cost and Aer Lingus is prepared to pay fair charges towards that solution. But T2 is the solution for terminal congestion for all airlines, not just for Aer Lingus and provides additional capacity for all, regardless of whether the airline is ultimately in T1 or T2 (or both).

Furthermore, we reiterate that if an airline wishes DAA to provide it with a higher level of service outside the regulatory cap it should be possible for that airline and DAA to negotiate fair payment for this additional service without need for regulatory intervention. Indeed our view is that for the Commission to prescribe differentials for different services under the regulatory cap is likely to lead to a less not more efficient use of airport facilities.

## **B. FURTHER COMMENTS ON PEAK PRICING**

Aer Lingus reiterates its opposition to the use of peak charging in relation to T2.

We are aware of the efficiency arguments that can be applied to justify peak pricing in providing the appropriate design and use incentives. However, we consider these have been misapplied by the Commission in this instance.

As is spelt out above, the Commission is wrong as a matter of principle to treat T1 and T2 as distinct assets from the point of view of airport users. Both are specified to the same level of service. T2 is simply the most efficient method of expanding terminal capacity at Dublin that has been identified. If T1 and T2 were physically the same structure we do not believe we would be having a debate with the Commission about peak pricing for the marginal additional capacity.

As it stands there would only be a justification of peak pricing of terminal capacity at Dublin if *total* capacity was being driven solely by the total peak and if in addition, terminal capacity were the determining factor of capacity as a whole at the airport.

Neither of these factors is the case at Dublin. Most importantly airport capacity is constrained by runway, not terminal capacity therefore there is no economic efficiency argument for rationing terminal capacity at peak times through higher prices. Even if there were a justification, the argument would have to apply equally to T1 and T2, as they are substitutes in terms of capacity.

Furthermore, as spelt out above, the Commission misinterprets the facts relating to one airline being located in a single terminal. Clearly this is efficient for the airline from an operational point of view, but does not impose costs on the system as whole if peak capacity in total is not the constraining factor.