
Aer Rianta Response
To Addendum to Commission Paper
CP4/2003:

Draft Proposal for the Amendment of
the Sub-Cap on Off-Peak Landing
and Take Off Charges at Dublin
Airport

December 2003

The logo for AerRianta, featuring the word "AerRianta" in a bold, red, italicized sans-serif font. The letter "A" is stylized with a grey triangle pointing upwards inside its top bar.

SUMMARY

Aer Rianta is making this submission in response to the Addendum to Commission Paper CP4/2003, which was published on 27th November 2003.

We are opposed to the Commission's proposed amendment to the sub cap on off-peak landing and take-off charges at Dublin Airport. The Commission's proposal represents a regressive step as:

- It will add further intricacy to what is already a complex process for setting one element of airport charges. The proposal by the Commission is unique among airports anywhere in the world
- Due to the administrative burden it will impose, its introduction as a temporary measure represents a significant additional cost for the industry

The Commission has not demonstrated that this complex approach to runway pricing conveys any more benefits than a simple off-peak charge per tonne, which is the norm at airports worldwide. We urge the Commission, to simplify the proposed off-peak charging structure i.e. levy a specific off peak amount per tonne for all aircraft, as is the practice at other airports where off peak charges are levied. The Aviation Appeal Panel noted that "*the sole use of ACN as the basis for setting landing charges appears to be unique and thus not consistent with practices at other airports*"¹ and also "*other airport operators use the MTOW mechanism for determining landing and take-off charges*"². It recommended that "*there are a series of problems arising from this methodology...thus it needs to be reviewed*"³ Aer Rianta understands that the major carriers at Dublin Airport would support a move to an MTOW based charge.

The Commission's proposal is not consistent with the obligation placed upon the Commission under Section 33(i) of the Aviation Regulation Act 2001, to have due regard to "*imposing the*

¹ Aviation Appeal Panel Decision, January 2002, page 13

² *ibid*, page 15

³ *ibid*, page 15

minimum restrictions on the airport authority consistent with the functions of the Commission". As it is difficult to see what value the imposition of this proposed pricing structure would add to either the airport or the users, other than to impose further costs in its implementation, we recommend that the proposal be abandoned.

1. A FLAWED APPROACH

The Commission has stated that it introduced the sub-cap on runway movement charges at Dublin Airport to encourage the efficient use of airport infrastructure, though it has repeatedly failed to provide any empirical evidence to support the effectiveness of such an approach and has ignored requests from airlines, aircraft manufacturers and Aer Rianta to change this approach in favour of a simpler method.

The Commission's approach is flawed and incomplete as the analysis underpinning the off-peak charging structure does not recognize the possibility that efficient prices may deviate from marginal costs. Though Commission itself has acknowledged that there are high fixed costs associated with the provision of runway facilities⁴, these are not considered in its off-peak charging structure. In addition, basing the off-peak charging structure on the short run marginal costs of runway usage as measured by the damage costs to runways by various aircraft types (expressed by the Aircraft Classification Number - ACN - which is unique to each aircraft) does not reflect environmental, noise or other costs associated with off peak use of the runway. It also fails to consider any additional marginal costs imposed on other elements of the airport system by off peak runway movements nor does it consider the passenger load capacity of different aircraft. The Appeal Panel noted, *"in using ACN no account is taken of other related costs, for example, ground based navigation aids and the provision of rescue and fire fighting services"*⁵. ACN is therefore a very limited measure resulting in sub caps that do not reflect the true marginal cost of runway usage.

The ACN method was established by ICAO and is described in *"Aerodrome Design Manual"*⁶. According to the manual, the ACN/PCN method is meant **only** for publication of pavement strength data in the Aeronautical Information Publication. Its use by the Commission as the basis for setting an off peak price cap is therefore completely different to the express purpose for which it was designed.

⁴ Presentation by Cathal Guiomard, Head of Economic Affairs, Commission for Aviation Regulation to GAD Vienna 23rd October 2003

⁵ Aviation Appeal Panel Decision, January 2002, Page 13

⁶ "Aerodrome Design Manual", Part 3, Pavements, Second Edition, International Civil Aviation Organisation, 1983

Even were Aer Rianta to accept, which it does not, that the approach has some arguable theoretical or academic merit, it is a burden on the industry, complex and administratively costly and does not clearly demonstrate that the resultant outcomes are either effective or equitable for such an 'enforced' approach

The ability to adjust pricing structures in response to market dynamics is an essential requirement for any business, and is also fundamental to the principles of competition and the desire of the Commission, as expressed in CP2/2001, to reflect as closely as possible through its function a competitive market environment. In contrast to these objectives, the implementation of the Commission's existing sub cap for off peak runway usage has resulted in a situation whereby more than 50% of time each day is designated as off-peak and Aer Rianta earns just 10% of its aeronautical revenue from charges levied in respect of runway infrastructure used during that timeframe. Rather than resulting in additional efficiency, and reflecting market dynamics, this enforced approach has the effect of giving contradictory signals to the market regarding the costs associated with the use of expensive infrastructure.

When the Commission proposes an approach that is different and more complex than any other structure at any other airport in the world of which Aer Rianta is aware⁷, then the burden of proof must rest upon the Commission to establish that its proposal meets the objectives set for it. The Appeal Panel concluded that *"there are a series of problems arising from this methodology...thus it needs to be reviewed"*⁸ and Aer Rianta, as the airport authority and various carriers at Dublin Airport have raised serious concerns about the Commission's approach. Despite this, the Commission has persisted in imposing its complex methodology and is now proposing even more complexity. This is a most unsatisfactory situation and is contrary to the Commission's statutory responsibility under Section 5(4) of the Aviation Regulation Act 2001 to ensure that determinations, amendments etc *"shall be objectively justified and shall be non-discriminatory, proportionate and transparent"*.

The Commission notes that the ACN is a function of aircraft weight, tyre pressure and landing gear and has generated a single customised ACN for aircraft based on *"the weighted average of the*

⁷ This view was supported in evidence given to the Aviation Appeal Panel by British Midland and Air Contractors (Ireland)

⁸ The Aviation Appeal Panel Decision, January 2002, page 15

*average billed weight*⁹ in 2002 (assuming specific tyre pressures). Given that the Commission has acknowledged that for a given aircraft the ACN value is highly sensitive to underlying assumptions e.g. tyre pressure, by using a single ACN value the Commission has already diluted its intended methodology. Grouping aircraft into categories based on ACN ranges further reduces its precision. We find it difficult to understand why the Commission does not simply use MTOW as an easily available and well understood proxy for the marginal impact on the runway of a given aircraft and apply a flat charge per tonne. This approach would avoid many of the costs and complexities of the Commission's proposals.

⁹ Addendum to CP4/2003, page 8

2. A COMPLEX SYSTEM THAT IMPOSES REGULATORY BURDENS

The current sub cap structure has proved extremely cumbersome to operate, has placed a costly administrative burden on users and Dublin Airport and results in no gains in terms of economic efficiency. The approach is not consistent with the obligation placed upon the Commission under Section 33(i) of the Aviation Regulation Act 2001, to have due regard to *“imposing the minimum restrictions on the airport authority consistent with the functions of the Commission”*.

In CP4/2003, the Commission stated its intention to refine the methodology underpinning its sub-cap on off-peak landing and take-off charges at Dublin Airport and noted that this may result in *“one or two additional charging categories”*¹⁰. In the subsequent Addendum to CP4/2003 the Commission proposes to completely revise existing charging basis by

- introducing a single off peak per movement charge for each category of aircraft, rather than the previous charge per tonne,
- increasing the number of aircraft categories from five to eight and
- moving a substantial number of aircraft between categories.

If implemented, the Commission’s proposals as set out in the Addendum to CP4/2003 would be the **third** change in methodology in relation to the off peak sub caps since the Determination was first issued in 2001 and the Commission is proposing that the system would change **yet again** for the next Determination. There are significant costs associated with reconfiguring Aer Rianta’s billing systems to implement the Commission’s proposals and dealing with the significant level of queries. Approximately €100,000 has been spent by Aer Rianta to date for this purpose. This amount does not allow for the ongoing costs related to the administration of the complex charging regime.

If the Commission’s proposals are implemented it will result in a situation whereby Aer Rianta will be charging on a per tonne basis in the peak and a per movement basis in the off peak for the same runway at the same airport. It would be inconsistent and confusing from an airline and an airport perspective and will require further expenditure to resolve.

¹⁰ CP4/2003, page 25

We have been in dialogue with the Commission for the past 18 months regarding the appropriate configuration of systems to deliver data to meet the Commission's reporting requirements in relation to the various price caps. The Commission set out a detailed and complex list of requirements on 20th September 2002¹¹ and has requested Aer Rianta to make arrangements to report this data into the future. Defining the systems to support the reporting requirements has been time consuming and costly. Changes have now been indicated in CP4/2003 that will require significant changes for the runway sub caps element of the report specifications just as Aer Rianta completes the initial reporting suite for the existing formats that were agreed with the Commission. If the Commission's new proposed structure is imposed the entire process for developing the runway sub caps element of the reporting requirements will have to recommence, thereby further increasing costs. Costs will also be imposed on the industry in relation to

- time expended by Commission staff on checking compliance
- audit costs associated with compliance
- implementation of changes to carriers systems to monitor the new sub cap regime
- time expended checking the appropriate categorisation for any new aircraft types that might commence operations at Dublin.

It is clear from the foregoing that the Commission's proposal in relation to this sub cap represent a costly regulatory burden for the entire industry for no apparent gain.

¹¹ Please see attached schedule to letter dated the 20th September 2002 from Oliver Hogan, Economist Commission for Aviation Regulation to Ray Gray, Director Finance, Aer Rianta

3. COMMENTS ON THE SPECIFIC METHODOLOGY ADOPTED BY THE COMMISSION AND ITS PROPOSALS RE IMPLEMENTATION

The following comments relate to specific points made by the Commission in relation to the methodology it has applied in arriving at its new proposed sub caps.

- The Commission has obtained fleet information from Aer Lingus, British Midland and Ryanair and indicates that it *“would welcome fleet information from any airline operating at Dublin Airport and would endeavour to make appropriate adjustments to its proposal on that basis”*.¹² The relevance of fleet information to the Commission’s decision making in respect of the off-peak price caps is unclear. It would appear that the Commission’s interpretation in respect of the price caps for off peak use of the runway at Dublin is, in some (undefined) way, contingent on the fleets being used by incumbent carriers at Dublin. This would suggest that the off peak pricing structure may positively discriminate in favour of certain airlines. Such an approach is not be in keeping with the requirement of the Commission under Section 5(4) of the Act to carry out its functions in a non-discriminatory, proportionate and transparent manner.
- The process used to arrive at the charges per movement are extremely complex and whether an aircraft is deemed to belong to one categorisation or another can be influenced by a range of issues. In particular, the Commission has noted that differences in assumed tyre pressures have resulted in the ACN numbers of certain aircraft being very different to those used in 2001¹³. We are of the view that a charging methodology that can be affected by such a variable input as changes in aircraft tyre pressure is not robust. This further supports the contention that the Commission’s approach is an inappropriate basis on which to determine the level of the price cap for off peak use of the runway.

¹² Addendum to CP4/2003, page 9

¹³ *ibid*, page 10

The following comments relate to specific points made by the Commission in relation to the implementation of its proposed sub caps.

- The introduction of the off-peak system has been ineffective. This can be seen by the fact that the actual ATMs in the off-peak period for January to March 2003 show no change from the previous year. A comparison of summer 2003 v 2002 shows an increase in movements for the peak and a decrease for the off-peak, while the slot applications for 2004 show a sizeable increase in both peak and off-peak periods. This is not what would have been expected if the off-peak structure introduced by the Commission had been effective. The Commission defined its off-peak charging structure solely in relation to marginal costs associated with runway movements. However, Aer Rianta brought to the Commission's attention that this disregarded marginal costs imposed on other elements of the airport system during the off-peak periods. This is illustrated by the fact that in terms of terminal passenger throughput in 2002, 69% of the busiest 16 hours involve the period defined by the Commission as off-peak.
- The Commission defined off peak periods for the duration of the regulatory period which did not allow for any operational changes that could occur over time. We welcome the Commission's suggestion in CP4/2003 that it will examine the off peak periods to ensure that they reflect the current situation at Dublin (though this point is subsequently not addressed in the Addendum)¹⁴. If the runway subcaps continue to apply at Dublin Airport, the off peak periods should be defined by Airport Coordination Limited (ACL), the independent body that currently oversees the voluntary slot co-ordination process at Dublin Airport¹⁵. To avoid any danger of the peak shifting phenomena, there should be scope for reviewing the defined off peak periods on a seasonal basis.
- The Commission is suggesting that the changes to the sub cap would be implemented by 1 January 2004¹⁶. Given that the closing date for submissions in relation to the Addendum is 12th December (with the possibility of an extension) and the Commission must then

¹⁴ Aer Rianta notes that the Commission has suggested in CP4/2003 that the original off-peak periods were based "on traffic distributions that reflected inaccurate data on the cargo operations". Aer Rianta has fully complied at all times with any information requests made by the Commission and has not been made aware of any deficiencies in respect of the cargo information supplied to the Commission to date.

¹⁵ Aer Rianta would have to be involved in the discussions surrounding the parameters to be used in defining peak and off peak periods and the timetable for setting and advising these periods.

¹⁶ Addendum to CP4/2003, page 11

consider the responses it receives, it is unreasonable to expect us to be in a position to implement a new price cap within a few days over the Christmas holiday period, particularly given the extent of changes that will need to be made to the billing and reporting systems. Hence, there will undoubtedly be a period where we will have to issue credits/debts in relation to invoices already issued which will be a costly and cumbersome administrative exercise.

- The Commission notes that, for the future, its preference would be to adopt charges based directly on an aircraft's ACN. However, as ACN values can vary by individual aircraft, the Commission has noted that *"in order to ensure a level playing field a common methodology and set of assumptions for the calculation of ACN values would need to be agreed by the industry or specified by the regulator"*.¹⁷ We are opposed to the Commission's proposals in respect of a move to relating charges solely to an aircraft's ACN as it believes this to be a complex structure that imposes regulatory burdens and does not reflect the full extent of the marginal costs involved. If the Commission insists on introducing such a complex system it must specify the rules under which it must operate and it must allow for the administrative burden involved.

¹⁷ *ibid*, page 6

APPENDIX 1

Schedule to letter dated 20th September 2002 from Oliver Hogan, Economist, Commission for Aviation Regulation to Ray Gray, Director Finance, Aer Rianta