

BRIEFING NOTE FOR PUBLIC ACCOUNTS COMMITTEE 17 JANUARY 2013



THE COMMISSION FOR AVIATION REGULATION (CAR)

ESTABLISHMENT AND ROLE

1. The CAR was established under the Aviation Regulation Act 2001 and assumed a number of functions previously carried out by the Department of Transport. Others have since been assigned to the CAR by the Oireachtas.
2. We currently carry out seven roles in the areas of price regulation, licensing, and consumer protection. All of these (other than licensing the travel industry) are now governed by EU legislation.

We set a price cap

- 1 on airport charges levied by the DAA at Dublin airport, and
- 2 on terminal air traffic control charges levied by the IAA at three airports;

We license

- 3 Irish registered airlines
- 4 travel agents and tour operators selling travel out of the State, and
- 5 ground handlers at the three main airports;

We enforce certain consumer rights for

- 6 air passengers in general and for passengers with reduced mobility

And (7) we set the slot scheduling regime at Dublin airport.

3. The primary role of the CAR is to set maximum charges at Dublin airport and on the air navigation terminal charges at the three State airports, generally on a five-year cycle. The process we follow in a price review is to publish an issues paper, presenting parties with up-to-date information and our preliminary views on what might be topics relevant to the review, and seeking responses. After consideration of these responses, and the collecting of further information, we publish a draft decision for comment. When these representations have in turn been considered and the CAR has concluded its analysis, a final determination is made and published.
4. Our most recent price determination was a 2011 decision relating to the terminal services charges set by the Irish Aviation Authority (IAA). This decision reduced the

2010 price cap by about 25% from 2011; it is expected to fall by a further 6% per annum in 2013–2015. The reductions were mainly due to the IAA's reduced investment levels and the operating efficiency targets set by the CAR. The prevailing airport price cap was made in 2009 and applies to 2010-2014. We are now working towards the next airport price review, due to be completed by the end of 2014.

5. Both the airport and the air traffic control price caps include an explicit link between the level of the price cap and the quality of service provided, such that if a regulated firm does not meet these targets the annual price cap is reduced (by a maximum of 4.5% in the case of the DAA, and up to 10% in the case of the IAA). The commission publishes periodic reports on whether the DAA and the IAA are meeting the service quality standards.
6. In addition to the pricing work, the office has certain licensing and consumer protection roles. Each year we ensure that some 300 travel agents and tour operators are bonded, so that their customers can if necessary be refunded or repatriated; we establish that 60 airlines and ground-handlers satisfy ownership and business requirements, including financial fitness and insurance cover; we respond to thousands of air passenger rights queries from the public, and investigate those 300 to 400 complaints that are within the CAR's responsibility.

MEDIUM-TERM BUDGETARY AND STAFFING TRENDS

7. The CAR is funded primarily by a levy on the aviation industry, supplemented by income from licence fees paid by aviation and travel companies.
8. We have a staff ceiling (under the Government's Employment Control Framework) of 18 persons but currently operate with 15 staff, all on approved public-sector pay scales. The 2001 Act required the CAR to establish a pension scheme for its staff, for which interim approval has so far been obtained from the Departments of Transport and Finance/DPER.
9. The CAR has always outsourced all its 'back office' functions such as travel planning, building services, payroll, internal audit, communications, cleaning, website protection, IT maintenance and printing. The Commission has no assets other than office furniture and equipment; it leases its office accommodation.
10. We are keenly aware that money spent by the CAR is paid by licence holders and levy payers; financial control is a priority for the CAR. Estimated total expenditure in 2012 was almost 35% lower than in 2006. The allowed staffing level was 18% lower. Reorganisation, staff flexibility and the transfer of the administrative aspects of a number of functions – passenger complaints and travel industry and airline

licensing – to the web, have to date allowed the office to carry out our work at these lower levels of resources.

11. The CAR seeks to strike a balance between controlling the costs of regulation (and the compliance costs that the Commission imposes on those firms it regulates) and at the same time ensuring that the work of the office is of the highest standard. We have sought – by simplification of our own application forms, greater computerisation of records, better engagement with the industry and use of web-based licensing and acceptance of passenger complaints – to reduce the compliance costs for regulated sectors. A substantial part of the costs of the office over the past decade – up to 20% of the budget in some years – has been due to a stream of costly, though ultimately unsuccessful, legal challenges to our decisions.
12. To improve accountability, a 2009 Government Statement on Economic Regulation proposed that government departments would agree appropriate performance indicators with regulatory offices, to be published in subsequent annual reports. The CAR introduced KPIs designed to capture aspects of our performance – primarily the timeliness of our work – that is important to those with whom we engage and that is substantially under the influence of the office. These have been published since 2011.

RECENT DEVELOPMENTS AND FUTURE CHALLENGES

13. The state of the Irish aviation industry remained subdued in 2012; passenger traffic, aircraft movements and holiday bookings were well below the levels of the late 2000s although there have been recent signs of stabilisation and some very modest growth. In this weak economic climate, the CAR concentrated on carrying out its functions: in 2012 we renewed 280 travel and 60 aviation industry licences, monitoring the finances of many companies that hold licences. We consulted on aspects of the airport regulatory regime that had been raised in the last price review and in preparation for the next review. We responded to more than 3000 air passenger queries, and investigated some 400 eligible passenger complaints.
14. In 2012, our core (e.g. non-legal) costs continued their downward trend, falling by another 9%. Our budget for 2013 is €2.9 million, a decline of €0.65 million on the 2012 budget. As noted, in January 2013 there are 15 people employed by the CAR.
15. In terms of challenges, the Government has announced that the CAR will be merged with the safety regulatory division of the Irish Aviation Authority (IAA). This is planned for 2014. We have engaged with the Department and the IAA to give effect to these plans and we will continue to do so.

16. Furthermore, the Minister for Transport has launched a review of aviation policy to commence in 2013. Inter alia, this will offer an opportunity to interested parties to suggest any changes they would like to see in statutory remit of the CAR.
17. Closer to home, the CAR must undertake a full review of charges at Dublin airport and make a determination by the end of 2014 setting a price cap on airport charges in the subsequent four-plus years.
18. From a national perspective at a time of serious austerity, the following approaches to providing regulatory and other public services in a more economical way seem worthy of consideration, as suggested in CAR annual reports over recent years.
 - Alternatives to High Court judicial reviews that would have the impact of a judicial judgement but in a non-judicial setting should be explored.
 - Additional regulation – which generally arises at EU level – should only be introduced (or indeed existing rules maintained) where it can be demonstrated that that benefits to the public (comfortably) exceed the costs. A hard-headed stock-taking of the regulatory 'acquis' could make a worthwhile contribution to national economic recovery.
 - In recent years, tighter central budgetary control has been successful in reducing public spending. A promising avenue for finding additional efficiencies would now be to set, at least on a trial basis, rigorous performance indicators for public bodies, along with a full delegation of managerial autonomy, with managers held to account for their performance.

Commission for Aviation Regulation,
January 2013.