



Mr. Michael O'Leary,
Chief Executive,
Ryanair,
Corporate Head Office
Dublin Airport
Dublin.

26 January 2012

Dear Michael,

Thank you for your letter of 13 January 2012. May I start by wishing you a Happy New Year.

Your letter poses a number of questions about different areas of the Commission's activities in 2010. In the replies below, I have followed the order of the four sections of your letter.

1. DAA price increases and traffic declines

You ask why the CAR increased the price cap at Dublin airport in 2009. The CAR's reasoning is set out at length in the report of the December 2009 determination which, along with associated materials including consultancy reports and submissions by interested parties, is available on the CAR's website.¹ You will not have forgotten arguments in which you were centrally involved, concerning a decision which you also appealed to the courts and to the Minister.

Your letter claims that Dublin airport's charges are the most expensive in the Ryanair network. Simultaneously, the DAA claims that Dublin's charges "continue to be significantly cheaper than those at its peer airports throughout Europe".² Both statements are likely true, since Dublin airport is being compared to two different sets of airports.

You ask what action I intend to take to reduce charges at Dublin airport and to replicate the effects of a competitive market. The 2009 determination applies for the five years 2010-2014 and the price cap is not due to be reviewed until 2014.

¹ http://www.aviationreg.ie/2010_Airport_Charges/Default.122.html

² Press statement, DAA website, 11 November 2011.

As for replication of a competitive market, the CAR must determine a price cap to meet the three statutory objectives set down by the Oireachtas in legislation.³ The Department of Transport has indicated that it intends to review the airport regulatory regime. That review would be an opportunity for interested parties to make the case that the regulator be required to promote competition.

2. Over-staffing

You ask for an explanation of the work the CAR carried out in 2010. I summarise the position only briefly below, given that further information is available in the Commission's 2010 Annual Report which you gave as the starting point for your letter.

The work in different parts of the office ebbs and flows; price reviews are required only in some years; judicial reviews are taken only in some years; travel companies collapse only in some years; passenger complaints spike only in some years. The CAR therefore pursues internal flexibility, moving staff where appropriate between teams to deal with the workflow; staff are not rigidly assigned to particular functions. To improve the service to the public and reduce in-house administration, we have moved significant administrative processes onto the web (travel trade and air carrier licensing, and passenger complaints). But the office still needs to maintain a minimum level of staff and a knowledge base in a number of areas and a minimum administration, including to allow compliance with the duties particular to a public-sector body. The CAR will certainly explore, in the context of the forthcoming merger with the IAA, the scope for synergies, although these may be modest.

Air Passenger Rights

One remarkable feature of your letter is the complete omission from your list of the CAR's work of the passenger rights function, despite regular engagement in this area for the past seven years between the CAR and Ryanair.

In 2010, the air passenger rights team received the highest to date number of contacts from the public prompted by the impact on aviation of the volcanic ash emissions and the very cold weather of that year. You will recall that, following the outbreak of volcanic ash, Ryanair announced that it would disregard the provisions of passenger rights Regulation and refuse assistance to stranded passengers of those whose flights had been cancelled. Following contact from this office, Ryanair reversed its position in the following days.

³ (a) to facilitate the efficient and economic development and operation of Dublin Airport which meet the requirements of current and prospective users of Dublin Airport,
(b) to protect the reasonable interests of current and prospective users of Dublin Airport in relation to Dublin Airport, and
(c) to enable Dublin Airport Authority to operate and develop Dublin Airport in a sustainable and financially viable manner.

In terms of contact from the public, CAR staff focused initially on addressing the queries of passengers who found themselves stranded. Subsequently, they investigated and sought to resolve some 250 cases involving potential breaches of EU regulations. Other information about these cases appear in the 2010 Annual Report.

The passenger rights team in 2010 also investigated complaints from passengers who are disabled or with reduced mobility, inspected the nine Irish airports to ensure compliance with the regulations, and attended meetings with the European Commission about implementation of the passenger rights regime.

Price Regulation

A second remarkable feature of your letter is that you claim that there was no regulation of airport charges in 2010 – even though much of the CAR's work in the first half of that year was in response to challenges to our 2009 determination taken by Ryanair.

In February 2010, Ryanair commenced a legal action to judicially review the 2009 determination. Ryanair lost the case and the CAR was awarded its costs. Separately, the Minister for Transport established a regulatory appeal panel to hear appeals against the 2009 decision, including one by Ryanair. The panel referred seven matters back for review, two from the Ryanair appeal. We undertook a two-month review of the determination, published a consultation paper, invited and received responses, met with the parties that had made appeals, and published a revised determination.

In addition, we prepared and published two consultation papers on aspects of airport price regulation: regulatory accounts and the regulatory till. Each topic was one on which Ryanair had disagreed with the CAR in 2009 and we had undertaken to review these matters. Sadly and somewhat contradictorily, after the papers were published, Ryanair boycotted the consultations.

Apart from airport issues, we started work in 2010 on the review of the IAA's air traffic control charges (that was finalised in 2011) with the publication in October 2010 of an issues paper.

Licensing

The CAR licenses or approves almost 70 air carriers and ground-handlers and some 280 travel agents and tour operators.

Our roles in these areas involves deciding on new licence and approval applications; renewing licences where appropriate; and enforcing the requirements of the licensing regime on licence holders (e.g. provision of accounts and insurance cover) including by visits to firms and by investigation of credible reports of unlicensed activity. In addition, CAR staff interacts with the

European Commission in Brussels when, such as currently (the 'better airports' package), legislative changes are expected to be required to Irish laws.

We updated the travel trade licensing regime in 2010; most firms that qualify under company law for an audit exemption no longer have to produce audited accounts to be eligible for a travel trade licence.

Furthermore, the travel trade team, with the assistance of agency staff when required, manages the refunding (or repatriation) of customers where the closure of a travel firm has left them unable to take or complete a holiday for which they have paid. The largest such closure in the CAR's history occurred on 25th November 2009 when Budget Travel went into liquidation. A majority of the resulting claims reached this office only in 2010, a year when more than €4m in total was paid to travel industry customers who submitted more than 2,800 claims for refunds. The tables in the 2010 Annual Report provide further information.

3. Excessive staff costs and other waste

The budget of the CAR has fallen in my time as Commissioner, despite initial boom-time conditions. In 2010 it was more than 25% lower than in 2006, even though the passenger rights function was added to the CAR during this time. The approved level of staffing is also lower: 18 in 2010 against 22 before that, a reduction of close to 20%. Through re-organisation, staff flexibility and moving aspects of a number of functions onto the web, we have been able to continue to carry out our functions at these lower staffing levels.

I suggest that an office's expenditure is best assessed at this overall level. Otherwise, reductions in individual budget lines could be engineered that would leave overall spending higher e.g. switching work to consultants would cut the direct payroll and numbers of directly employed staff but only at a much higher total expenditure.

Our average salary level reflects the fact that a high proportion of our staff are qualified to an advanced level in areas such as economics, law, and accountancy and act in those capacities. And, as we have moved elements of our administrative work onto the web and reduced the number of administrative/clerical staff, the changed composition of staff has raised the average pay.

In 2010, consultancy expenditures were mainly related to IT. Advertising accounted for some €20,000 of the €80,000 expenditure on advertising and PR. We have a lease on our offices; many of those who visit the CAR might not find Dublin airport a suitable alternative location. Runway slot coordination is supported by all airlines at Dublin airport bar Ryanair, and the cost is the result of an open competitive tender about which Ryanair and other airport users were consulted.

I believe that the above information constitutes the full reply you sought to your letter. Further information on the work of the CAR is contained in the Annual Report for 2010.

Yours sincerely



Cathal Guiomard
Commissioner

cc: Minister Varadkar
Oireachtas Public Accounts Committee (with copy of CAR 2010 Annual Report)
Oireachtas Finance, Public Expenditure Committee (with copy of 2010 Annual Report)