Aer Lingus

Luke Manning
Irish Aviation Authority
The Times Building
11-12 D'Olier Street
Dublin 2, D02 T449

August 23rd, 2024

RE: **IAA Draft Decision on RP4 Draft Performance Plan for Air Navigation Services Charging and Performance in Ireland**

Dear Luke

Aer Lingus is pleased to respond to the IAA's consultation on its Draft Decision for RP4. The IAA appears to have taken on board many of the comments that Aer Lingus made in its response to the IAA's Consultation on RP4 Methodology, and consequently we are broadly supportive of the approach that the IAA has taken.

Our comments fall into two categories: general; and specific, and each are discussed in turn below. We have focused on what seems to us to be the most important areas of the IAA's Draft Decision, and therefore, for the avoidance of doubt, the IAA should note that where Aer Lingus has not commented on a specific issue in the Consultation, we reserve our position, and this should not be taken as an implicit agreement with the IAA's proposal.

General Comments

The IAA's proposed settlement is unnecessarily generous to AirNav Ireland (ANI). There is a high level of clearance in the IAA's financeability tests (even with ANI's unrealistically high capex plan) and the IAA are forecasting an increase of +2.2%pa in the en-route Direct Unit Cost (DUC) , despite a Union wide DUC target of -1.2%pa. Like the IAA and ANI, Aer Lingus places the highest priority on the safety and resilience of our airspace. Consequently, we accept the IAA's draft decision to increase the number of Air Traffic Control Officers (ATCO) and engineers. However, that does not give ANI carte blanche to recruit, deploy staff, and pay inefficiently. The IAA should subject ANI's proposals for extra staff to scrutiny on salaries, grade profiles, job roles, proper management of leave and absence and so on. The evidence presented in the IAA's draft decision does not support the scale of recruitment proposed. We comment further on this with respect to the CEPA's review of opex below.

In addition, the Business Plans presented by ANI to IAA are low quality and poorly constructed. For example, it is clear that the MET ASD Business Plan is not of a quality to be expected of a business seeking finance from its shareholders, stakeholders and/or regulator. This in turn calls into question the ability of MET ASD to deliver the outcomes proposed in their Business Plan to either cost or timelines.

Our high-level concern with the ANI Business Plan also applies to the MET ASD Plan in that the consumer engagement undertaken to develop the plan was perfunctory at best. This is, of course, out of step with modern economic regulatory practice. For example, the UK economic regulators like OFGEM, OFWAT, OFCOM and even the CAA require their regulated entities to both engage with their stakeholders in the development of their plans and to show a 'golden thread' between that engagement and the development of the plan.

No such requirement exists for ANI and MET ASD and as a result their plans are simply the designs of monopolists whose market power must be constrained by the IAA for the good of the public, rather than a plan which genuinely attempts to reflect and reconcile, the needs of their users. We raised this issue with the IAA in our response to its RP4 Methodology Consultation.

Specific Comments - ANI

In terms of ANI's proposals for Opex in RP4, we welcome the IAA's decision to seek independent advice from CEPA. However, we feel that further work needs to be done before IAA can determine an efficient level of opex.

For example, CEPA use a benchmark of other ANSPs to determine an appropriate level of efficient opex. Given that no ANSP is subject to market forces but rather subject to Government or regulator decisions of what constitutes efficient spend that this may indeed be different to the efficient level opex that would be incurred by an efficient ANSP operating in a competitive market. Essentially what is presented is a efficient level of spend relative to an inefficient benchmark. Therefore, there are likely to be areas where opex efficiency can be found beyond CEPA's recommendations.

One potential area for additional savings is a comprehensive review of the pension and non-salary benefits currently offered by ANI. IAA must require that ANI provide well-supported business cases for additional engineering roles, including detailed job descriptions, a clear rationale for the roles, and a cost-benefit analysis.

The Weighted Average Cost of Capital (WACC) is a complex issue, and we reserve the right to provide further comments on the IAA's proposals at a later stage. We would welcome a discussion with the IAA regarding the choice of the mid-point in the range of possible values for the variables that make up the WACC. Given the operation of the TRS (Traffic Risk Sharing), which protects ANI from downside risk, it seems that ANI is more exposed to upside risk. It feels we're double paying, user cover the covid losses and are also penalised by the high inflation of the RAB. Therefore, a truncated distribution skewed towards upside risk would likely provide a WACC that more accurately reflects the nature of the risks faced by ANI.

Regarding ANI's capital plan, we agree with the IAA's assessment that the plan is ambitious, especially considering the level of spending in previous control periods, the need to recruit and train new engineers, and the implementation of a new project management process. We support the IAA's proposal to reduce the overall level of the capex programme rather than focusing on individual projects.

Finally, the IAA's must clarify its proposed treatment of the Topsky ATC One project. Current custom and practice is to charge for the asset in use rather than under construction in keeping with the user pays principle. While the 2019 Regulation does not preclude pre-funding, it is not clear on what basis the IAA has allowed ANI to change the current practice in how it charges for capital projects and whether for example, after analysis the IAA has concluded that such a change is in consumers' interest in this case.

Specific Comments – MET ASD

We have already commented on the poor quality of the MET ASD Business Plan and the lack of meaningful customer engagement that went into its construction. IAA should look at ways to penalise the entities it regulates for producing poor quality plans and those that do not demonstrate proper stakeholder engagement.

We are concerned that MET ASD propose a real DUC CAGR of 10.5% for the control period when the Union wide target is -1.1%. There is no justification for such an increase.

There are a number of issues with MET ASD's opex proposals and the realisation of benefits from capex. For example, there is justification, or indeed analysis, to increase headcount by 8 FTE to deal with staff leave. This is especially in the light of the fact that at 52 FTE, headcount is already +4 to plan. Part of the business case for the AMAP programme was the efficiency gains that it would deliver, yet MET ASD are proposing to increase the number of observers (as opposed to reducing under AMAP) and have staff numbers at 52 rather than the promised 48.

There is no compelling case for an increase in headcount and the additional 4 posts over forecast headcount constitute inefficient spend and should be disallowed, unless justified by MET ASD. Furthermore, the lack of benefits realised from the AMAP programme either suggests poor project management from MET ASD, or an unrealistic business case. Either way, airlines, on behalf of their customers invested in this project on the basis of a positive business case, and those benefits have not materialised. This suggests that IAA should disallow at least some Airport Modernization and Expansion Plan (AMAP) spend from the RAB in order to make airlines and their passengers whole.

We support the IAA's decisions on the reduction of the allocation key, their decision that there are no compelling arguments for direct costs to rise, and for removing core costs that had been inadvertently added to direct costs.

In terms of MET ASD's proposals to fund a Professorial post in AI and Machine Learning. Aer Lingus does not disagree in principle, although we are not convinced that this is the most cost-effective solution. An objective, positive and robust business case must be presented before we could support such expenditure.

The HPC2 and IMaMS2 projects are at an early stage and obviously the costs are high level estimates. Given that, the errors in the Business Case and MET ASD's seeming inability to provide staff costs adjusted for inflation, these costs estimates are not reliable. Consequently, we propose that these costs be removed from the capital plan, and are added only at contract stage, and only then if the IAA believes that the costs are efficient.

Finally with respect to the Data Visualisation Programme and the Auto OBS programme we accept the IAA's comments on cost allocation. However, should any output from these projects be used outside of the stated remit, we expect IAA to reapportion costs towards those who would otherwise benefit for free.

We are happy to discuss any of the comments in this submission.

Yours sincerely

Marta Drozdz
Airports Commercial Manager