

## **KEY POINTS OF THE SUBMISSION BY THE CHARTERED INSTITUTE OF LOGISTICS AND TRANSPORT IN IRELAND TO THE PUBLIC CONSULTATION IN RESPECT OF AN INTEGRATED IRISH AVIATION POLICY**

- The proposed policy document should clearly outline the policy and legal context for Irish aviation policy and explain the constraints within which any Irish Government has to operate, including policy choices already made and our obligations under EU law and global conventions.
- Dublin Airport is our only significant international gateway and is the key to international connectivity. Cork, Shannon and the Belfast airports are the only other significant national players, while Knock has a regional significance.
- There is no overwhelming case for changing the ownership of the three State airports at present. In the longer term, consideration could again be given to tendering the operation of a terminal at Dublin Airport but not to a privately owned terminal.
- Shannon Airport faces a challenging future but should be given the time, space and policy certainty to carry through its business plans. The longer term ownership and governance arrangements for Cork Airport should be addressed in the policy document.
- The only real medium term issue relating to airport capacity is the second runway at Dublin Airport. A second east-west runway is not required for the immediate future but the issue should be kept under regular review, taking account of traffic growth and the expiry of the current planning permission in 2017. Private funding should be considered as a possible way of more equitably allocating the cost to users over the life of the asset.
- The State should not continue to provide funding for regional airports, subject to two limited exceptions. The Donegal Airport PSO should be retained and there may be a case for limited Exchequer support for capital investment at the regional airports which is deemed essential by the relevant public authorities (i) for safety or security reasons and without which the airport would close and (ii) for emergency service bases at regional airports.
- Charges should be regulated at Dublin Airport only. The power of the Minister to issue policy directions to the Commission for Aviation Regulation in respect of airport charges should be repealed and replaced by a clear hierarchy of objectives in the relevant primary legislation.
- The State should dispose of its shareholding in Aer Lingus but not while the current uncertain and unsatisfactory situation regarding the Ryanair shareholding continues. The Government should consider what measures it can take to ensure that Ryanair sells its shareholding, retention of which is not in the interests of Aer Lingus or a competitive Irish aviation market.

- Good connectivity is an essential component of Irish aviation policy and can be supported by low aviation-related charges, liberal aviation agreements with third countries, maintenance of the US pre-clearance facilities, policies that maximise the population catchments of our principal airports, a benign tax environment and visa and other entry requirements which facilitate tourism and business travel.
- Ireland should pursue a liberal policy of granting fifth freedom access at all Irish airports and support EU action to negotiate the removal of restrictions on airline ownership, subject in both cases to reciprocal action by third countries.
- The Institute supports an “open cargo” policy and the introduction of US cargo pre-clearance and US FDA pre-clearance. Enhanced cargo connectivity can be supported by measures similar to those advocated for passenger connectivity.

## **SUBMISSION FROM THE CHARTERED INSTITUTE OF LOGISTICS AND TRANSPORT IN IRELAND TO THE PUBLIC CONSULTATION IN RESPECT OF AN INTEGRATED IRISH AVIATION POLICY**

The Chartered Institute of Logistics and Transport in Ireland (“the Institute”) is the independent professional body for people engaged in logistics and all modes of transport. The Institute is part of an international body with 30,000 members worldwide. As a professional body, the Institute does not lobby on behalf of any sectoral interest, but seeks to take an independent, objective and considered view on matters of public policy.

The Institute welcomes the opportunity to respond to the public consultation in respect of an integrated Irish aviation policy. Our submission begins by making some general remarks on the approach to the proposed policy document and goes on to respond selectively to a number of topics raised in the consultation paper. It also raises a few issues which are not explicitly addressed in the consultation paper.

### **General Remarks on the Approach to the Proposed Policy Document**

The Institute considers it to be very important that the proposed policy document provides a clear exposition of the policy and legal context within which Irish aviation policy has to be situated and that it explains the constraints within which any Irish Government has to work. We respectfully suggest that the policy document address the following topics:

- It should provide a historical and philosophical context for the proposed policy, outlining how Irish, EU and global aviation policy has evolved since the Chicago Convention established the initial framework in 1944.

- Aviation activity is governed by a wide range of global conventions and EU legislation. It is important to set out clearly the principal constraints which this places on Irish aviation policy and also the opportunities it offers. This would include a clear explanation of the legal concept of aviation freedoms (what fifth freedom rights mean for example), the constraints on airline ownership and other relevant factors.
- Aviation operates as a commercial business and there are legal and policy constraints on Government intervention in the market. It is important to explain these so that the limitations and consequences of Government intervention are clearly understood. This should include reference to the significance of EU State aid rules and the limitations on the use of public service obligations. Reference should also be made to the relatively small size of the Irish market for air services and the potential implications this has for the provision of direct air services from a wide range of Irish airports.
- There should be a detailed and quantified analysis of the Irish aviation market, stressing the importance of aviation services to the Irish economy and society and looking at both passenger and cargo services. It should draw attention to the particular economic challenges presented by our peripheral location and the absence of a land connection to the rest of Europe. Our location and the absence of capacity constraints in our airspace and at our airports may also present opportunities and it might be useful to delineate these.
- A quantitative analysis of trends in the Irish aviation market over recent decades would provide useful context, showing for example the change from ship to aircraft for international travel, trends in domestic air travel, the role of air cargo and changes over time in route structures and origin/destination patterns and in the level of competition within the industry. It would also be useful to look at the size of the Irish market relative to population and provide a comparative analysis with other countries.
- Some consideration should be given to how the Irish and global aviation markets might develop in the future. What are the projections for growth? Are there likely to be changes in the origins and destinations of Irish air travel, with possibly less relative emphasis on the more mature markets of Europe and the United States? Will measures to address increasing concerns about the global environment and more particularly greenhouse gas emissions have significant implications for the cost of shorthaul travel or are environmental measures likely to have a more significant impact on longhaul travel?
- Irish aviation policy should be situated in a wider policy context. Firstly it should be explained how it fits within wider national transport policy, covering for example the impact of road and rail development on the provision of domestic and international air services. There should be an assessment of both Irish and international maritime transport policy to see if there are any relevant parallels which might inform aviation policy. It would also be helpful

to address the interaction between aviation policy and other Government policies. Prime examples include industrial, tourism and regional policies.

- There should be an island of Ireland perspective to our aviation policy. It is important to recognise that air travel on the island is not constrained by borders. Many people from Northern Ireland use Dublin Airport because of the improved motorway access and greater range of direct flights to international destinations. The Belfast airports are more convenient for people living in some of the northern parts of the Republic. These practical realities should be fully factored into the development of our national aviation policy and there should be active engagement with the Northern Ireland authorities during the preparation of this policy.

It will become clear from the analysis proposed above that the scope for Government intervention is quite limited because aviation operates in a liberalised market and because it is governed by a wide range of EU legislation and global conventions which cannot be changed unilaterally.

However where Government intervention is being considered, it should be subjected to the tests set out in the 2004 White Paper on Better Regulation, namely necessity, effectiveness, proportionality, transparency, accountability and consistency. We would draw particular attention to the tests of necessity and proportionality:

- Is intervention necessary?
- Are we satisfied that the advantages of intervention outweigh the disadvantages?
- Is there a smarter way of achieving the same goal?

It should never be assumed that Government intervention is always a good thing. There should be a careful analysis of the potential negative consequences of Government intervention and a real effort should be made to identify and analyse potential unintended consequences of such intervention. For example, could financial support for PSO services from certain airports divert traffic from other airports and threaten their viability?

Having made these general remarks, the submission will now address a selection of the questions posed in the consultation paper and some other issues.

## **Airports**

### **Airport Ownership**

Dublin Airport is the only airport in the State which can truly be described as critical to national business and tourism needs. It is our only significant international

gateway and is the key to international connectivity. The scope for direct international services to/from other airports will always be limited because of the small size of our domestic market and the commercial realities of the global aviation market. Dublin, because it is a capital city and an attractive destination, probably has a wider range of international services than would be justified by its catchment population alone. Dublin Airport's position in the Irish market has also been strengthened by the completion of the motorway network which has significantly increased its catchment population.

Cork, Shannon and the Belfast airports are the only other significant players at a national level in the Irish aviation market, while Knock has a regional significance.

There is no overwhelming case for changing the ownership of the three State airports at present. Privatisation of State assets in Ireland has not been an unqualified success. The existing precedents suggest that we should be cautious in our approach to the disposal of State assets, particularly critical national infrastructure. Timing is also important and now is certainly not the right time to sell our airports. The economic conditions are not right and the airports themselves face significant commercial challenges, arising from falling traffic and an overhang of debt from past investments.

In the case of Dublin Airport, the right to operate Terminal 2 has only been recently awarded to the Dublin Airport Authority and it should be given a reasonable period to recover traffic lost during the recession and restore growth. In the longer term, consideration could again be given to tendering the *operation* of one of Dublin Airport's two terminals as a way of stimulating competition and benchmarking performance. The Institute does not favour the development of new privately *owned* terminals at the Airport. The additional capacity is not needed for the foreseeable future and a private terminal would divert traffic from the existing terminals and undermine their commercial viability.

Revised ownership and governance arrangements have only recently been put in place for Shannon Airport and business plans are being developed to achieve renewed traffic growth there. The Institute supports these new arrangements, but recognises that Shannon still faces a very challenging future. However it should be given the time, space and policy certainty to carry through its business plans.

The Government took a decision in late 2012 that Cork Airport should remain within the Dublin Airport Authority. In its response to a 2012 public consultation on a consultancy report concerning the future ownership and governance of Cork and Shannon Airports, the Institute supported the consultants' assessment that the most suitable option for Cork Airport was as an operating subsidiary of a holding company owning both Dublin and Cork Airports. While full autonomy might have been desirable in principle, it appeared from the analysis that it would pose significant financial risks to the DAA and could potentially disrupt its financing plans. Given the

overwhelming importance of Dublin Airport to the national economy this would clearly have been highly undesirable. Therefore the most realistic viable option for Cork was as an operating subsidiary with the optimum level of commercial independence. Ideally that subsidiary would be set clear financial and business targets by the holding company and then be given the maximum possible freedom to operate the airport, develop traffic and negotiate its own competitive commercial terms with airlines.

We understand the reasons for the pragmatic decision taken by Government at the end of 2012. However, we consider that the proposed aviation policy document should revisit the question of the longer term ownership and governance arrangements for Cork Airport. In principle, the Institute would favour independence as the longer term option for Cork while accepting that there are practical reasons why that is not possible for the immediate future.

### **Future Airport Capacity Needs**

The only real medium term issue relating to airport capacity is the provision of a second runway at Dublin Airport. The widely expressed view at the December National Aviation Conference was that this was not an issue at present and that there would need to be a substantial growth in traffic before it was justified. Some commentators suggested that a second runway would only be required when annual traffic reaches 28-30 million passengers. This was contrasted with Gatwick, which claims to be the world's busiest single runway airport and currently handles about 34 million passengers. The Dublin Airport Authority argued that the threshold was 28 million but that the trigger point for the commencement of construction was 23 million. It should be clarified if that trigger point was based on higher traffic growth assumptions than now expected. In any event that trigger point will not be reached for some years given that total traffic was 19.1 million in 2012 and that growth in passenger numbers is likely to be slow for the immediate future. However passenger throughput is not necessarily a good guide to runway capacity as the comparison with Gatwick shows. The principal consideration is number and type of aircraft movements and particularly peak aircraft movements. A 2004 capacity study commissioned by the Commission for Aviation Regulation observed that "while Dublin is not 'best in class' for a 'single' runway airport, the capacity is not far short of what other similar airports already achieve, for example, London Gatwick and London Stansted". Another particularly relevant factor which should be taken into account is that the current planning permission for a new runway will expire in August 2017.

The Institute considers that a second east-west runway is not required for the immediate future. However the need for the runway should be kept under regular

review, taking account of growth in traffic, and more particularly aircraft movements, and likely trends in the size of aircraft serving the Dublin Airport market. Particular attention needs to be given to the capacity of the DAA to finance such a large investment in the medium term. The Authority already has a substantial debt burden arising from the construction of Terminal 2 and a number of other investments. The past Dublin Airport investment is being funded by substantial increases in regulated charges which are being paid by the current generation of airport users. Careful consideration should be given to the best way of funding the new runway and to how the cost might be more equitably allocated to users over the life of the asset. For example is it possible to raise private funding using a public private partnership approach similar to that used successfully for roads? In the case of roads the infrastructure is usually built and financed by the private partner whose investment is remunerated from user charges over a long period of some thirty years. It would be more expensive but it might also spread the burden over a longer period. In the case of roads, the private partner is often responsible for maintenance and renewal over the period of the agreement but this approach might be more complex to implement in an airport operating environment.

## **Regional Airports**

The Institute recognises the importance which the regions attach to local airport access and understands why the regional airports were developed. There are a number of important considerations which should be taken into account when considering policy on the future of these airports:

- How many airports are required to serve a state with a population of 4.5 million and a land area of under 70,000 square kilometres or an island with a population of 6.4 million and a land area of over 80,000 square kilometres?
- What are the implications of the changes that have taken place in the surface transport system in recent years, particularly the completion of an extensive motorway network, the improvement of rail services and the development of the bus network and more particularly direct airport bus services? Planned future developments, such as the construction of the Atlantic Road Corridor, which will extend the catchments of both Cork and Shannon Airports, also need to be considered.
- To what extent are the catchments of the various airports overlapping and what implications does this have for the viability of individual airports? For example, what is the impact on Shannon Airport traffic of Ireland West Airport Knock and Kerry Airport? Why should the State continue to fund competing regional airports which might have a negative impact on the future viability of a State airport?

The Institute's conclusion is that the State should not continue to provide funding for the regional airports. The interests of the State, business and tourism are best served by ensuring that we have viable commercial airports at Dublin, Cork and Shannon. Efforts should continue to improve access to, and widen the catchment populations of, those airports by further improvements to the road network, particularly the Atlantic Road Corridor and access roads to the northwest, and further development of the public transport system, especially direct bus services to the airports. A greater catchment population will help strengthen the commercial case for the retention of existing air services at Shannon and Cork in particular and for the development of new routes.

Shannon Airport is particularly vulnerable. Total passenger traffic declined by 14% in 2012 to 1.4 million, with a 6% reduction in terminal traffic. Comparing 2012 with the 2000-2004 average, it is clear that the main decline has been in transatlantic, transit and domestic traffic which has reduced by 66% from 1.28 million to 0.43 million. By contrast, the total reduction in traffic over the period was 42% (from 2.4 million to 1.4 million) while shorthaul international traffic declined by 13% from 1.12 million to 0.97 million. Current traffic is way below the peak of 3.6 million in 2006 and 2007. Increasing traffic to the long term average of about 2.4 million will require a substantial effort and it is far from certain that it will be achieved. The challenge for Shannon is on such a scale that its prospects for success should not be put at risk by State financial incentives for competing regional airports.

We suggest two limited exceptions to the policy of no State funding for regional airports. The public service obligation should be retained in the case of Donegal Airport in view of its remote location and the length of time it takes people or cargo from that area to reach one of the principal airports on the island of Ireland. There may also be a case for considering limited Exchequer support for capital investment at the regional airports where such investment is deemed essential by the relevant public authorities for safety or security reasons and without which a particular airport would have to cease operations for scheduled and charter services. Exchequer support should also be provided for any necessary investment required for helicopter air-sea rescue or other emergency service bases at regional airports where that investment accords with national emergency response or other relevant policies.

### **Pricing of Airport Services**

Because of its dominant position, charges at Dublin should continue to be regulated. Charges at other airports do not need to be regulated and can be left to the market to determine, subject to compliance with competition law.

The power of the Minister to issue policy directions to the Commission for Aviation Regulation in respect of airport charges should be repealed. The reasons are set out

below and were already articulated in the Institute's recent submission to the Department of the Taoiseach on policy relating to economic regulation generally.

It is for Government to determine policy and the job of the aviation regulator is to implement it. There is a constant temptation for Government to decide on a range of regulatory policy objectives, without resolving any inherent conflicts between them or indicating priorities. This may be a way of satisfying the demands of differing interests and avoiding political difficulties, but it wrongly cedes much of the policy making role of Government to the regulator. Where the analysis suggests a number of policy objectives for a regulatory regime, it is critical that there is an effective challenge process which asks if each of these objectives is appropriate and necessary and which identifies a clear hierarchy of objectives and where appropriate a primary or overarching objective. In this way, the aviation regulator, Dublin Airport, the airlines and the users will have clarity about the Government's policy objectives and this in turn should lead to greater predictability in regulatory outcomes. The resulting hierarchy of objectives should then be clearly set out in the relevant legislation.

The use of these policy directions has not been effective in achieving policy objectives to date and it can be argued that the process impinges unnecessarily on the independence of the regulator and lacks sufficient transparency. A much better approach is to achieve clarity on the objectives of regulation from the outset, set them out precisely in statute and regularly review the regulatory policy and mandate. If Government and the Oireachtas are not sufficiently clear as to their policy objectives and policy priorities, they have no right to complain about the decisions taken by the regulator.

## **Air Services**

### **Irish Airlines**

The Institute considers that Irish aviation policy should favour competition in the provision of scheduled air services to and from the State. Because of our critical dependence on air access we should seek to retain a diversity of air carriers serving the Irish market and to avoid the emergence of a dominant player in the market as a whole or in significant sectors of the market such as London or the North Atlantic. Such dominance would be to the disadvantage of the Irish economy and would most likely lead to significant increases in airfares and knock-on effects on discretionary travel such as inbound tourism.

While this policy is very easy to advocate, it is not so easy to implement. As explained earlier, the Government has already made policy choices and is subject to EU and global rules which together limit the levers it can deploy to ensure the

desired outcome. The principal way it can currently help to implement this policy relates to the future ownership of Aer Lingus.

The Institute considers that there can be a future for Aer Lingus as a separate regional airline provided it has the right ownership and cost structures and it enters into appropriate alliances with other airlines so as to increase its international market reach. At present the airline has two shareholders who frankly are not best placed to support its long term development – the State and Ryanair.

The State is not in a position to provide any necessary investment the airline might need in the future and tends to be subject to the type of political pressures which make it a poor shareholder.

Ryanair is a major competitor of the airline and its continuing as a shareholder is not conducive to the future development of Aer Lingus and to the retention of effective competition in a significant segment of the Irish aviation market. There is continuing legal uncertainty about a range of issues. The European Commission recently blocked the Ryanair takeover bid for Aer Lingus but Ryanair has indicated that it will legally challenge this decision. The Irish Takeover Panel has ruled that Ryanair will be able to renew its bid as early as August this year and Aer Lingus has announced that it will challenge this decision in the courts. The UK Competition Commission has published provisional findings on Ryanair's shareholding which, if confirmed, are also likely to be challenged in the courts. It is also unclear what Ryanair's long term intentions for its shareholding in Aer Lingus are if it cannot achieve its initial objective of acquiring the airline. These factors create a very unsatisfactory and destabilising situation for Aer Lingus which needs to be resolved without delay so that Board and management can focus on developing and implementing a longer term growth strategy for the airline. It is in this context that the Government needs to consider what measures it can take to ensure that Ryanair divests itself of its shareholding in Aer Lingus.

It is in the long term interest of Aer Lingus that the State divest itself of its remaining shareholding in the airline. Price should not be the primary driving factor in any decision to sell the shareholding. The primary considerations should instead be:

- Will the disposal help to retain effective competition in the provision of scheduled air services to and from the State?
- Does the proposed investor(s) represent a good fit for Aer Lingus, with the capacity to support investment in the airline when required? If the new investor(s) is an airline, will its participation help to extend Ireland's access to the international aviation market and develop inbound traffic to Ireland?
- Does the disposal represent a good option for maintaining and improving Ireland's international connectivity in the longer term?

Consideration should also be given to the best type of investor for the airline. Some of the commentary to date seems to assume that the shares would be sold to a

single airline investor. That is not necessarily the best option for Aer Lingus or for Ireland. A more dispersed shareholding may provide a better outcome. Other options that should therefore be considered include institutional investors and/or more than one airline. We accept that, notwithstanding our advice, the Government has to find willing buyers and that may require some policy compromise. However that does not negate our contention that the Government should have a well thought through disposal policy.

There needs to be a reasonable degree of certainty on the future of the Ryanair shareholding before the Government decides to sell its shares. Disposal of its shares in the current uncertain and unsatisfactory situation could simply compound the difficult corporate governance situation faced by Aer Lingus at present and we welcome recent statements by Ministers broadly supportive of this view. More generally, the optimum timing of any sale is difficult to determine and will be influenced by a range of factors, including market conditions and interest among potential investors. However the Government should ensure that it has done the necessary preparatory work so that it is in a position to move quickly if circumstances warrant it or if a suitable offer to buy emerges.

The Aer Lingus shareholding raises two wider policy issues which should be considered by Government as it develops its aviation policy:

- Should Ireland seek changes in the current EU and global rules which restrict the ownership of airlines? At present it is not possible for a non-EU entity to own a majority shareholding in an EU airline. While we understand the genesis of this policy, it is clearly at odds with the wider Irish and EU policy which favours and has largely achieved the liberalisation of the aviation market. It would seem to be in the longer term interest of Irish aviation that this restriction be removed provided this can be implemented on a reciprocal basis, particularly between the EU and US.
- It is notable that the investigation of the appropriateness of Ryanair's shareholding in Aer Lingus is being carried out by the United Kingdom Competition Commission and not by the Competition Authority in Ireland where both airlines are registered and have a more substantial presence in the local aviation market. The Government should consider whether Irish competition law needs to be changed to give the Competition Authority stronger powers to ensure effective competition in the Irish aviation market and avoid abuse of dominant position.

## **Connectivity**

Good connectivity is an essential component of Irish aviation policy, given our critical dependence on exports and the importance of inbound tourism to the Irish economy. Ireland has a wide range of direct air services to Europe and the United States, particularly from Dublin Airport. It is important that we do everything possible

to retain and expand this range of services by taking measures such as the following:

- Maintain airport and other aviation-related charges at the lowest possible level consistent with the commercial mandate of our aviation authorities and the efficient service delivery principle.
- Negotiate liberal aviation agreements with third countries. We should adopt a liberal approach in relation to third country airline access to Ireland, including the granting of fifth freedom rights (that is the right to operate an air service from one's own country to another – in this case Ireland – and then onwards to a third country and the right to pick up and set down passengers or cargo). Such agreements should be negotiated on a basis of reciprocity. While there may be some competitive challenges for Irish airlines, such a liberal approach is likely to bring significant net benefits to Ireland as a small island economy on the periphery of Europe.
- Maintain the US pre-clearance facilities at Irish airports.
- Implement policies that maximise the catchment populations of the State airports because they provide the best potential for the development of direct international services. This can involve a range of policy measures, including spatial planning policies relating to the location and distribution of population, improvements to surface transport links to these airports and in their hinterlands and not providing State financial support for airports which would take traffic from them.
- Provide a benign tax environment, avoiding where possible taxes aimed specifically at air travel.
- Ensure that visa and other entry requirements facilitate tourism and business travel.

The development of Irish aviation policy affords the Government an opportunity to consider whether the current arrangements for the allocation and regulation of slots within the EU are the most effective way of using them. Slots have in effect become the property of airlines and they have a substantial scarcity value at congested airports. Airlines also have “grandfather rights” to slots and retain them as long as they continue to be used. Is the current approach to slots the most economically efficient and does it produce the best outcomes from a transport and wider economic policy perspective? What are the implications for access to hub airports from more remote regions and peripheral countries? These regional and peripheral routes frequently tend to be more marginal commercially and airlines may be tempted to use the slots instead for more profitable longhaul routes. Some consideration should be given to how other countries deal with this issue, particularly from the perspective of regional economic development.

Notwithstanding this fundamental review of slots policy, the negotiations on the revised EU slots Regulation provide an opportunity to look at possible ways of

facilitating continued access to major hub airports for smaller countries and regions. One possible suggestion which the Institute recommends that Government consider is a provision in the revised Regulation permitting bodies such as airports to participate in the proposed secondary market and purchase slots at the going market rate for the specific purpose of facilitating continued regional access. Such an approach would preserve the fundamental principles underlying existing EU law, particularly the liberalised market-based approach, while retaining at least some limited regional access to major hub airports, such as Heathrow.

As part of its preparatory work on a national aviation policy, the Government should also consider whether it is in our long term interest to continue to have such a high dependence on Heathrow for access to those parts of the world not served by direct flights from Ireland. Will possible future changes in the origins and destinations for Irish air travel and the continuing scarcity of slots at Heathrow result in the aviation market responding by further developing services to other European hubs such as Amsterdam, Frankfurt and Paris Charles de Gaulle or to new hubs elsewhere in the world? For example, in recent years we have seen the development of hubs for Irish air travel in Istanbul and the Middle East with the arrival of Turkish Airlines, Etihad and Emirates.

Heathrow is, and will continue to be, an extremely important hub for Ireland. In 2012, the Dublin-Heathrow route was the busiest European and the third busiest international route accessing Heathrow. It is by far the most frequently used of the London airports for Irish traffic and is a much more important hub than other major European airports such as Paris (Charles de Gaulle), Amsterdam and Frankfurt. Heathrow serves over 190 destinations in 90 countries, most of its traffic is scheduled, it accounts for over 70% of all longhaul scheduled flights from UK airports and it provides much better opportunities for inter-lining than other London airports.

While the Institute recognises the critical importance of the Heathrow hub, it also considers that our dependence on it needs to be reduced in the longer term. There is the risk of keeping all ones eggs in one basket. There is also the high monetary value of slots at Heathrow and the constant pressure to use them for longhaul flights, which is likely to increase while capacity is limited to two runways. Changing patterns of air travel to and from Ireland may also make other hubs more attractive. For example, the recent arrival of Middle East airlines in the Irish market has made it possible to travel from Ireland to major cities in Australia with only one stop enroute compared with the traditional two stops in Europe and the Far East.

Any consideration of access to Heathrow has to address the Aer Lingus slots. The airline currently “owns” 23 slots pairs at Heathrow, though it recently sought shareholder approval to dispose of one pair which is of little value to it. It is already entirely free to use the slots in a way which best suits its commercial interest and that includes diverting them from Irish routes. While the State retains its

shareholding it has the power, provided it can convince other shareholders owning at least 5% of the shares to support it, to prevent the company *selling* any Heathrow slots. The Institute considers that there will be a continuing strong demand for air travel between Ireland and Heathrow and beyond and that this will ensure that airlines continue to provide adequate capacity to serve that demand. It is in the longer term interest of Aer Lingus and Irish aviation that the State disposes of its shareholding, notwithstanding the loss of its constrained residual power to stop the sale of slots. That power cannot stop Aer Lingus diverting the slots to other routes and is dependent on the support of other shareholders, which may not be forthcoming. The best defence of those slots is a strong and vibrant aviation market across the Irish Sea.

While the Government can articulate a policy on the development and diversification of hubs, there are limits to its ability to influence the commercial decisions made by airlines. It is limited to the types of measures mentioned earlier in respect of connectivity more generally – low charges, liberal aviation agreements, US pre-clearance, maximising airport catchment populations and a benign tax environment.

### **Air Travel Tax**

The Institute considers that the air travel tax should be abolished, but agrees with the Government strategy of making this decision contingent on the airlines giving prior firm commitments that its abolition will be accompanied by measures designed to achieve a significant growth in inbound traffic. As mentioned earlier, Government should in future avoid the introduction of taxes specifically directed at air travel as one of the policy contributions it can make to maintaining and improving Ireland's connectivity.

### **Future Traffic Rights Negotiations**

The Institute considers that a liberal approach to the negotiation of traffic rights is in Ireland's long term interest. In the same way as our economy is dependent on liberal global trade policies, the development of its aviation market will also be best served by liberal policies. This may result in challenges for incumbent airlines, but these are likely to be outweighed by the advantages of an open market approach. In keeping with overall approach, the Institute favours:

- Ireland adopting a general policy of providing fifth freedom access to all Irish airports;
- Ireland supporting EU action to negotiate the removal of current restrictions on the ownership of airlines;

provided reciprocal measures are conceded by the relevant states.

The Government's aviation policy should also indicate its priority countries or regions for the negotiation and re-negotiation of aviation agreements, based on its analysis of likely future trends in global travel as it affects Ireland.

## **Cargo**

The forthcoming policy document could usefully try to draw together more comprehensive statistical data on cargo carried by air to and from Ireland, as it has proved difficult to get a full picture from published sources. In the 1990s the air mode accounted for less than 1% of merchandise trade by volume but 18% by value, reflecting the importance of this mode for the carriage of high value low volume/weight goods (Operational Programme for Transport, 1994). More recent data, garnered from CSO and the Irish Exporters Association, lends support to this broad thesis. The total volume of air cargo in 2011 was just under 120,000 tonnes. This compares with 45 million tonnes of sea freight and there would also be a volume of import/export trade across the land frontier with Northern Ireland. The total value of merchandise trade by air in the same year was an estimated €42 billion compared with total goods exports and imports of about €130 billion. According to the IEA study, about €33 billion worth of exports (amounting to 35% of the total) was carried by air. The comparable figure for imports is lower, at about 18%. These figures suggest that carriage by air is very important for merchandise trade and especially for our export trade. It is also worth noting that the above figures most likely do not include cargo initially moved by land and sea to be subsequently airfreighted from an airport outside the State.

The Institute supports an "open cargo" policy for dedicated cargo services for similar reasons to those already set out in respect of passenger services. Such a policy is in Ireland's interest as a small, open, export dependent economy and is likely to provide the most conducive environment for efforts by Irish airports to grow cargo services. In a similar way the introduction of US cargo pre-clearance and US Food and Drugs Administration pre-clearance would be of benefit.

The new aviation policy should recognise the various dimensions of air cargo in an Irish context. There is the dedicated cargo service referenced in the consultation paper. There is also the cargo carried on passenger aircraft, particularly on longhaul services and the cargo that leaves Ireland by land, destined principally for an air cargo hub in the United Kingdom. We need to consider what we can do to facilitate and support the development of all three dimensions of air cargo. The general suggestions made earlier in relation to passenger connectivity also apply to cargo. The development of additional longhaul passenger services to and from Ireland is likely to be beneficial from a cargo perspective as such services are more likely than shorthaul routes to carry cargo in their holds. The airports need to consider how they can facilitate cargo, not only in terms of their charging regimes but also in terms of physical facilities such as parking stands. An effective cargo security regime,

adequately overseen by the State, is also of major importance to the development of cargo services.

## **Regulation and Governance**

### **Economic Regulation**

The existing remit of the Commission for Aviation Regulation should be retained in respect of charges at Dublin Airport because of that airport's dominant position in the Irish aviation market. There is no need to regulate charges at other airports and they should continue to be free to set their charges in a commercial way in response to market conditions and in compliance with competition law. Earlier in this submission, under the heading *Pricing of Airport Services*, we set out our more detailed views on the operation of economic regulation. We also raised a question about the adequacy of the powers of the Competition Authority to intervene in the aviation sector.

The direct costs of economic regulation should be borne by the end users as they are the ultimate beneficiaries.

In its recent submission on economic regulation generally, the Institute expressed reservations about the use of charges to finance Departmental costs relating to the economic regulation. In principle, we consider that such costs should be funded from general taxation. However if a way could be found to ensure that the proceeds of such charges were ringfenced to strengthen the expertise of Departments in relation to policy on economic regulation and corporate governance of regulators, we would be prepared to lend provisional support. It would have to be clearly demonstrated that the funding from such charges was being used directly to augment Departmental expertise and was not, over time, simply used as another way of financing general Departmental budgets.

There has been criticism of the way some airlines pass on the various fees and charges relating to air travel. It is therefore important that users are given clear information about the fees and charges and that they do not exceed the costs actually being incurred by the airlines. It is also important that clear procedures are put in place for refunds where a service is not used and that any deductions for administrative costs are reasonable, transparent and cost-related.

### **Safety Regulation**

The Institute considers that aviation safety regulation in Ireland is working effectively and to a high standard. The proposed restructuring of the Irish Aviation Authority and the Commission for Aviation Regulation is intended to separate regulatory and

service provision functions. We can support the principle of separating oversight and delivery, but its implementation needs to be handled with care to ensure that there is no disruption to the safety regime or no diminution in the standards, particularly during the transition period. It is important that management and staff are not distracted or diverted from their core regulatory jobs during the transition period. The recent transfer of responsibility for aviation security from the Department to the IAA increases the complexity of the restructuring process and adds to risk.

The Institute understands that the restructuring will result in the aviation safety regulator becoming a non-commercial State body whereas the IAA is currently classified as a commercial State body. The practical effect of this is that the new regulatory body will be subject to detailed controls on staffing and remuneration and that it will be included in the overall employment control framework for the Department of Transport, Tourism and Sport and its agencies. Our concern is that this could lead to restrictions on the new body recruiting and remunerating the necessary staff and that it could adversely impact on the ability of that body to discharge its functions in an effective way. We strongly urge the Government to ensure that the new regulatory body can continue to do its job effectively. Aviation is very important to Ireland. One of the largest airlines in Europe is Irish. We have a very successful aviation leasing business in this country. There is scope to build on our existing base to generate further value for the economy and create good jobs. Shannon aims to create an international aviation services centre around the airport. The future of all these is at least in part dependent on an effective regulatory environment.

A question is posed in the consultation paper as to whether the safety regulator should look at the economic strength and financial health of a regulated entity or rely on certification by a financial auditor. There is an argument to be made that a regulator should have the powers to look at financial or other matters which might potentially compromise safety. However those powers should not be exercised routinely but only in exceptional circumstances, particularly since applicants to the Commission for Aviation Regulation for an operating licence must already meet requirements for financial fitness.

The Institute does not favour increased recourse to self-regulation. The example of what happened with light touch regulation in the financial services sector provides a salutary lesson in this regard. That is not to say that everything needs to be regulated in minute detail. There may be scope for increased recourse to a safety management systems approach similar to that used in other safety critical industries. This would allow an entity greater flexibility as to the type of solutions to be used to achieve a given level of safety, rather than requiring it to comply with a rigid set of rules in all cases.

One area of safety regulation that merits increased attention is the significance for aviation safety of more complex commercial arrangements in the aviation business

and in particular the human factors implications of such arrangements. The traditional model of an airline buying or leasing an aircraft and operating all or nearly all the services itself is no longer the norm. We are now seeing increasingly complex commercial arrangements. Airlines hire crew from agencies and are no longer the direct employers themselves. Air services are delivered by contracted-in aircraft operators and not by the company that sells the tickets and that contractor could in turn be using agency pilots and a dry leased aircraft. When an airline operated a service itself with its own staff it was relatively easy to police safety. The more complex arrangements make it more difficult. If an agency pilot has no consistent work pattern or operating base, how can the regulatory system ensure that he or she is not already fatigued when starting work? It is fairly straightforward to regulate hours worked for a single employer, but less easy to control external factors in such circumstances. Consideration should be given to the use of electronic means to regulate this aspect of safety; an interesting approach to look at is the use of the electronic tachograph in the road transport sector which records driving time and rest periods and provides a basis for effective enforcement.

### **Air Traffic Management**

The Institute strongly supports the EU Single European Sky initiative as a way of making much more efficient use of European airspace, increasing capacity, reducing delays and mitigating environmental impacts. A particularly useful feature of this initiative is the implementation of functional air blocks (FABs), determined by operating considerations rather than political boundaries. The Irish and UK Governments are to be commended for introducing the UK-Ireland FAB, the first such initiative in the EU. The 2011 annual report on the operation of this FAB estimated that it had generated £37.5 million of savings in the period 2008 to 2011, including 48,000 tonnes of fuel and 152,000 tonnes of CO<sub>2</sub>. By 2020, annual savings could reach £31.2 million, including 35,000 tonnes of fuel and 111,000 tonnes of CO<sub>2</sub>.

### **Aviation Security**

When considering the introduction of any new aviation security measures, or reviewing any existing measures, there should be a full assessment of the impact on users (passengers and cargo). The impact on passengers (including factors such as delay, disruption and privacy) needs to be weighed against the seriousness of the threat and the effectiveness of the proposed measures in combatting that threat. The commercial impact and the costs imposed on industry in respect of cargo also warrant careful analysis. It is not demonstrably clear that such assessments are always fully undertaken, particularly where measures are urgently introduced in the immediate aftermath of a major incident. Some measures seem to have been adopted more because they give a perception of increased security rather than

because of their effectiveness in preventing a criminal act, for example the ban on small sharp objects. Consideration should be given to greater use of a security management systems approach to aviation security, as proposed in the UK's recent Aviation Policy Framework. This involves adopting a risk-based approach which is focussed on security outcomes and is similar in concept to the safety management systems approach referred to earlier in the *Aviation Safety* section. It is also interesting to note that the approach to security in the maritime and land transport sectors is seldom as stringent as that applied to aviation and it is therefore pertinent to ask why is something acceptable in one sector but not in another.

### **Departmental Policy Capacity and Expertise**

Economic, safety and security regulation is carried out by independent agencies at arm's length from the Department of Transport, Tourism and Sport. The Institute supports this approach but has a concern that the more regulatory and other functions, across all transport modes, that are assigned to independent bodies, the greater the risk that the policy making capacity of the Department will be depleted and its expertise hollowed out. As we stressed earlier in our submission, regulatory policy is the responsibility of the Minister and Department and implementation the domain of the regulator. The Department needs to have the resources and expertise to determine regulatory policy, identify and prioritise regulatory objectives and put in place effective governance procedures to ensure delivery by regulators. If the Department does not have the necessary resources and skills it will simply cede the policy ground to the regulators and it is not appropriate that regulators should be deciding policy by default. The Department also needs to have the necessary skills and expertise to represent Ireland in EU legislative negotiations and at global decision making fora such as ICAO. While the expertise of regulators should be availed of in such cases, it should be under the leadership of the Department.

### **Aircraft Leasing and Financing and Aerospace Maintenance Repair and Overhaul**

The Institute does not propose to comment in detail on these areas. We note that the questions raised in the consultation paper primarily relate to enterprise policy rather than aviation policy. We understand why the Government might wish to address these topics as part of a statement of aviation policy, for the sake of completeness more than anything else. The development of this area of policy is primarily a matter for the Department of Jobs, Enterprise and Innovation and the enterprise agencies. It is important that they be fully engaged in this process and that the resulting policy identifies a clear range of measures which it is proposed to

implement to support the development of aviation-related enterprise. Nothing would be worse than a lot of aspirational sentiments largely unsupported by specific actions.

It is important to note that the future viability of Shannon Airport is in part dependent on the successful development of downstream activities in the proposed international aviation services centre. This puts it in a somewhat different position to the other airports and raises the question as to whether Shannon should benefit from bespoke supports not available more widely.

In our view there is not a great deal that the Department of Transport, Tourism and Sport and its agencies can do directly in this area. They can ensure that the aviation regulatory system is responsive to the needs of the sector without in any way compromising the quality of regulation. It is also important to ensure that the Department and its agencies are resourced so as to provide speedy regulatory decisions, whether at the policy or operational level. The airports should also be encouraged to facilitate these downstream developments but in a way consistent with their commercial mandate.

## **Education, Training and Employment Rights**

### **Education**

The Institute is currently carrying out some work on the transport and logistics content of third level education programmes and has noted that there are a number of courses being delivered which have direct relevance to the aviation sector. They include:

- a range of courses offered by the Dublin Institute of Technology on aviation technology, various aeronautical subjects and transport operations and technology;
- a Bachelors and Masters Degree in aeronautical engineering, a corporate MBA with an aviation stream and specialist training in aviation finance offered by the University of Limerick;
- BScs in Aviation Management and Aviation Management with Pilot Studies at Dublin City University;
- a business degree in aviation and courses in transport and aircraft engineering offered by Carlow Institute of Technology.

There is also a quantum of commissioned work and research activity, for example in UCD.

As part of the review of the development of downstream activities, such as leasing and MRO, it would be useful to consider whether a needs analysis specific to the sector is required. This could assess whether there are skills deficits that need to be

addressed if the industry is to grow in Ireland and whether the current courses produce graduates with the right skills to meet the current and future needs of the sector. Such a needs review could also ask the same questions in respect of the airlines based in Ireland. The review could also consider how best to deliver aviation education and training in the future and whether there would be merit in developing a specialist cluster in a small number of educational institutions.

In the past the Irish Air Corps was an important provider of aeronautical engineering expertise to the wider industry through its apprentice programme. It would be useful to consider as part of the needs review whether a renewed apprentice programme, with its emphasis on practical training and experience, would have a place in meeting the future requirements of the sector. We accept that the current restrictions on numbers and finance in the public service may constrain such a development in the immediate future, but that does not necessarily rule it out as an option for the longer term.

Applying the principles of necessity and proportionality advocated earlier in our submission, it is not immediately clear why the State should intervene to provide a bonding system for pilot trainees and other students in the aviation sector. While it is unfortunate that students suffered financial loss as a result of problems at a particular training school and it is acknowledged that the cost of training is very high, that is not sufficient reason for the State becoming involved. If the State intervened in this area, would it not be expected to provide similar support in respect of other education and training courses? The cost of such a bonding scheme would have to be borne by the sector and this would in practice result in higher fees for students. It is the view of the Institute that the sole focus of the State should be on ensuring the adequacy and quality of the education and training of pilots and other safety critical staff working in areas subject to safety regulation by the Irish authorities.

### **Employment Rights**

There is already a wide range of Irish and EU law governing general employment rights. There are also extensive rules specifically governing employment in the aviation industry. The State should be slow to further intervene in this area unless there are clear safety concerns about some of the current employment practices. We made specific reference to some such issues in the *Aviation Safety* section of our submission.

### **General Aviation**

Facilities for business aviation, which continues to grow, are sub-standard at Dublin Airport in respect of airside access and passenger and crew facilities and at Cork Airport where ramp congestion requires aircraft to position elsewhere overnight.

Since business aviation users are often potential investors or customers or important opinion formers, these deficiencies should be addressed by the airports. These should be a review of the land use planning policies of local authorities to ensure that private airports can be used to their full potential for business travel. For example, circumstances can arise where the development of airport facilities is affected by the planning policies of two adjoining local authorities and those policies are not fully consistent.

The aviation policy statement should include reference to the role of aviation in emergency response, including air sea rescue, air ambulance and emergency medical helicopter services.

## **Sustainability**

Aviation is recognised as a significant contributor to greenhouse gas emissions, not so much in terms of its contribution to global emissions but because the impact of emissions at high altitudes may be greater. However we need to tread carefully in relation to policy in this area because Ireland is more dependent on air services than most other EU countries. Policies that make sense for the great majority of EU countries, such as the promotion of rail as an alternative to air for journeys of up to say 1000km, would be of no benefit to us given the absence of a fixed land link to continental Europe. Policies designed to favour rail over air could put Ireland at a substantial disadvantage, particularly if aviation were to be targeted by fiscal measures within the EU. It is also important that regulatory measures to achieve more environmentally sustainable aviation are agreed at a global level rather than at an EU level alone. If not, European airlines could be put at a competitive advantage in the longhaul sector, particularly given the trenchant opposition of third countries to the imposition of EU levies on their airlines. This could impact on the profitability of Aer Lingus on the transatlantic routes. The impact on Ryanair is likely to be less significant while it continues to operate within Europe but would have implications if it planned to develop longhaul services outside Europe.

## **Spatial, Regional and Local Land Use Planning**

The aviation policy statement should include a section on spatial, regional and land use planning, addressing matters such as the following:

- When updating national spatial policy, consideration should be given to measures which maximise the catchment areas of our key airports. This should include consideration of the location of future population growth, the

designation of growth centres and the development of the surface transport network.

- Consideration should be given to the need for further guidance for regional and local authorities on national aviation policy as it affects regional planning guidelines and local development plans, with a view to ensuring greater consistency in policy and practice by those authorities across the country.

### **Statistical Data**

Good data is the basis for good policy. The proposed policy document should therefore address the adequacy of the statistical data collected and published in respect of the aviation sector in Ireland. It appears to the Institute that the data published by the CSO and the various aviation bodies is not as comprehensive as available in many other developed countries. Earlier in the submission we referred to difficulties encountered in getting adequate cargo data. UK Civil Aviation Authority statistics were more helpful in obtaining information about Irish traffic through UK airports than the relevant published Irish sources. We respectfully suggest that an analysis should be carried out to identify gaps in the Irish data and how they might be addressed.

### **Consultation with Industry**

The questions asked in the consultation paper seem to relate primarily to ongoing consultation with the aviation industry. However this puts the sole focus on the producer side of the equation while ignoring the consumer. Consultation should be much more concerned with the needs of the economy and society and the requirements of the users, potential users and other beneficiaries of air transport (passenger and cargo) and this should be reflected in who is consulted and how. It is important to understand the needs of business, tourism, the regions and so on. The Institute would also welcome the opportunity to offer an input to any ongoing consultation framework, providing an independent and objective viewpoint from the perspective of logistics and transport professionals.

**Chartered Institute of Logistics and Transport in Ireland  
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