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Mr Rod Gander **CAA House** 45-59 Kingsway London WC2B 6TE **United Kingdom** 

Email: rod.gander@caa.co.uk

**Dublin Airport** County Dublin Ireland Telephone: +353 1 812 1212 Fax: + 353 1 812 1213

Corporate Head Office

Website: www.ryanair.com

By email and post

Consultation on structure of charges levied by HAL (CAP 1121) Re:

Dear Mr Gander,

I refer to the CAA consultation CAP 1121 of October 2013, entitled 'Investigation under section 41 of the Airports Act 1986 of the structure of charges levied by Heathrow Airport Limited -October 2013 data and analysis'.

The principle of cost-reflective and differential pricing finds support in European law as follows:

- Article 10(1) of the Airport Charges Directive, which states "The level of airport charges may be differentiated according to the quality and scope of such services and their costs or any other objective and transparent justification", clearly encourages the application of differentiated pricing.
- Article 102 TFEU prohibits price discrimination that arises where a dominant company (such as HAL) treats like cases differently or affords equal treatment to unequal cases.
- European case law dictates that an undertaking in a dominant position has "a special responsibility not to allow its conduct to impair competition on the common market". In its submissions, Aer Lingus has outlined instances where it believes HAL's refusal to apply costreflective pricing may harm competition on the European aviation market.

In the current investigation, if the CAA finds that the costs incurred by HAL in processing ROI/domestic passengers and other passengers are different, it should oblige HAL to reflect this difference in its charges.

Yours sincerely,

Director of Legal & Regulatory Affairs