

File With

## SECTION 131 FORM

Appeal No

ABP— 314485-22

Defer Re O/H

☐

Having considered the contents of the submission dated/received 20/12/24  
 from United I recommend that section 131 of the Planning  
 and Development Act, 2000 ~~be~~ not be invoked at this stage for the following reason(s):

no major issues

Section 131 not to be invoked at this stage.

Section 131 to be invoked — allow 2/4 weeks for reply.

☒
☐

Signed



EO

Date

21/12/24

Signed

SEO/SAO

Date

M

Please prepare BP — Section 131 notice enclosing a copy of the attached submission.

To

Task No

Allow 2/3/4 weeks

BP

Signed

EO

Date

Signed

AA

Date



## Planning Appeal Online Observation

Online Reference  
NPA-OBS-004123

BPHO to issue  
J-E, 29/12

### Online Observation Details

Contact Name  
Conor McAuliffe

Lodgement Date  
20/12/2024 13:56:52

Case Number / Description  
314485

### Payment Details

Payment Method  
Online Payment

Cardholder Name  
Conor McAuliffe

Payment Amount  
€50.00

### Processing Section

S.131 Consideration Required

☒ Yes — See attached 131 Form

☐ N/A — Invalid

Signed

*Cathy Conlon*  
EO

Date

23/12/24

### Fee Refund Requisition

Please Arrange a Refund of Fee of

€

Lodgement No

LDG— 076 952-24

Reason for Refund

Documents Returned to Observer

☐ Yes ☐ No

Request Emailed to Senior Executive Officer for Approval

☐ Yes ☐ No

Signed

EO

Date

### Finance Section

Payment Reference

ch\_3QY6hEB1CW0EN5FC0DiBdHOs

Checked Against Fee Income Online

EO/AA (Accounts Section)

Amount

€

Refund Date

Authorised By (1)

SEO (Finance)

Authorised By (2)

Chief Officer/Director of Corporate Affairs/SAO/Board  
Member

Date

Date



Conor McAuliffe  
Managing Director  
European & Industry Affairs

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20 December 2024

***Via Email***

Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1, D01 V902  
Email: [appeals@pleanala.ie](mailto:appeals@pleanala.ie)

RE: Dublin Airport Night Flight Consultation – 314485

Dear Secretary:

United Airlines, Inc. (United) appreciates the opportunity to comment on An Bord Pleanála's (ABP) draft decision to significantly increase night flight restrictions at Dublin Airport (DUB). UA23 from Newark (EWR) arrives in DUB within the nighttime period and so would be directly impacted by ABP's decision if implemented. We support the comments that the International Air Transport Association and Airlines for America have filed but wish to supplement them with brief observations of our own.

As an initial matter, United is committed to reducing our noise impact at all airports where we operate. United participates in Airport Community Roundtables and Fly Quiet programs at Los Angeles (LAX), San Francisco, Chicago O'Hare and London Heathrow (LHR) airports. We won a gold award in 2023 at LAX for having the quietest operations in the category of large airlines with over 100 daily operations and are consistently ranked one of the best airlines as part of LHR's League Table within its Fly Quiet and Green program. These programs and awards are based on our use of preferential runways, quieter aircraft and other measures that minimize aircraft noise exposure to surrounding communities.

We believe that the proposed ABP decision if implemented would violate the Balanced Approach, the EU Slot Regulation and the U.S.-EU Air Transport Agreement (ATA). We consider each of these in turn.

***Balanced Approach***

ABP proposes to introduce operating restrictions without following the Balanced Approach to noise management enshrined in the U.S.-EU Air Transport Agreement and in EU Regulation 598/2014 ("the Regulation"). Specifically, the effect of ABP's decision would be to limit the number of movements to an annual average of 35-40 flights during the night period between 11 pm and 7 am. This represents a significant reduction in the approximately 100-night flights currently being operated at DUB during the night period and the 65-night flight maximum that is

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a condition for approval of the second runway at DUB but is currently subject to a High Court stay.

Under Article 5 of the Regulation, before introducing operating restrictions, ABP must (a) assess the noise situation pursuant to ICAO's Doc 29 methodology to identify the noise problem, (b) define the noise abatement objective for that airport, (c) consider the measures listed in the first three Balanced Approach pillars and (d) determine that these measures are not sufficient to attain the noise abatement objective before considering operating restrictions. ABP has proposed operational restrictions without adhering to any of these regulatory preconditions.

#### *Slot Regulation*

The proposed and significant operating restrictions will lead to a loss of historic slots if implemented. Under Article 8 of the Regulation, a carrier which satisfies the 80% use or lose rule in one traffic season is entitled to the same slots/slot series in the subsequent equivalent traffic season. This "grandfather" right is designed to guarantee schedule certainty for passengers and investment certainty for airlines. In this case, the significant reduction that ABP proposes during the nighttime period means that airlines will lose historic slots in violation of Article 8.

#### *U.S.-EU ATA*

In our view, the proposed decision would violate a number of provisions of the ATA. Specifically:

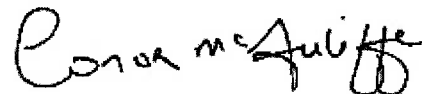
- Under Article 2, each party is to allow "a fair and equal opportunity for the airlines of both Parties to compete." The draft decision would incentivize non-U.S. carriers to repurpose short-haul slots to transatlantic service to capture demand that U.S. carriers would forfeit when forced to reduce transatlantic service. Thus, the decision would have an asymmetric impact on U.S. carriers and deprive them of a fair and equal opportunity to compete.
- Article 3(4) prohibits measures which "unilaterally limit the volume of traffic, frequency or regularity of service" on air transport routes between the parties. By reducing slots available to U.S. airlines, the draft decision would limit the volume of traffic, the frequency and regularity of services.
- Under Article 15(2), where a party "is considering proposed environmental measures at the regional, national, or local level, it should evaluate possible adverse effects on the exercise of rights contained in this Agreement, and, if such measures are adopted, it should take appropriate steps to mitigate any such adverse effects." ABP failed to have any regard to the obligations imposed by the US-EU ATA and has failed to take appropriate steps to mitigate the adverse effects that its restrictions would impose on U.S. carriers.

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In light of the above considerations, we respectfully request ABP to engage in a comprehensive Balanced Approach procedure and carefully evaluate the rights of airlines under the Regulation and the ATA before deciding whether a reduction in nighttime capacity at DUB is warranted and lawful.

Sincerely,

A handwritten signature in black ink, reading "Conor McFuliffe". The signature is written in a cursive, slightly slanted style. The first name "Conor" is written in a larger, more prominent script, followed by "McFuliffe" in a similar but slightly smaller script. The final letters of "McFuliffe" are more stylized and looped.