

## Gatwick Airport

Response to the Civil Aviation Authority  
Consultation on Preparing for a More  
Competitive Airports Sector

January 2010



## **Response to the Civil Aviation Authority Consultation on Preparing for a More Competitive Airports Sector**

### Foreword

Gatwick Airport is now under new ownership and is fully independent of BAA. This is an important step in allowing the development of competition between the major airports in the southeast of England.

These developments reinforce the importance of the CAA's work programmes relating to the assessment of competition and the design of new price control arrangements. If price controls are required in the future then it will be important that new arrangements are developed in a way such that the distortions created by the existing regulatory arrangements are significantly reduced. Any new arrangements should encourage commercial behaviour by airports, including the development of long-term commercial relationships between airports and airlines. It will also be important that any new arrangements allow Gatwick to continue to improve the level of service for passengers and are consistent with our main priority - the safety and security of passengers.

We strongly welcome the CAA's consultation on these matters and look forward to working with the CAA and other stakeholders with a view to developing arrangements that support and encourage the development of competition between major airports in the UK and overseas.

### Key Issues

**The CAA's objective of developing work programmes to address the assessment of competition and the design of regulatory arrangements that minimise the distortions to competition and investment.**

1. Gatwick Airport strongly supports the CAA's proposals for a review of its approach to assessing competition and setting price controls. In the light of the recent Competition Commission Inquiry into BAA and the independent ownership of Gatwick, it is essential that the CAA develops an approach to regulation that encourages commercial behaviour by airport owners and operators, facilitates the development of competition and significantly reduces or removes distortions to the incentives for investment.

#### **Rationale and objectives – regulation and competition**

2. As noted above Gatwick Airport supports the broad rationale and objectives for this review. In particular we note that CC report demonstrated the scope for competition between London airports and the expectation that following the break up of BAA that Gatwick would no longer hold significant market power.



### **Rationale and objectives – implications for the CAA**

3. We support the CAA's suggestion that it should be in a position to review whether the deregulation of a particular airport is warranted, and, in order to secure this objective the CAA should review its approach to assessing competition and setting price controls.
4. Nevertheless, the CAA should consider further whether its needs 'to develop an approach for assessing the degree of competitive pressure faced by an airport, both to ensure its analysis supporting any consideration of regulatory withdrawal is robust and to deal with any Competition Act cases that may arise' (paragraph 4.7). The analysis that is likely to support deregulation will be essentially forward looking in nature, taking account of current market characteristics but also considering how the market might develop in the future, and the likely interactions with existing and new regulatory arrangements. In contrast the analysis that would be necessary to deal with Competition Act cases will typically relate to conduct that has occurred in the past and will need to take account of the decisions of the UK and European Courts in relation to similar cases. While these matters are clearly related it may be that the CAA needs to develop an approach to assessing the scope for deregulation which has some significant differences to that used for Competition Act cases. This would be consistent with the approach adopted by the Commission's DG Competition, which issues separate guidelines in relation to the assessment of mergers (where its analysis is essentially forward looking) to that issued in relation to investigations relating to compliance with Article 81 and Article 82 of the EC Treaty.
5. In paragraph 4.8 the CAA notes that it expects to take account of previous work including work carried out to determine the market power faced by Manchester and Stansted airports. While it is appropriate for the CAA to consider previous work it will also be important for the CAA to take full account of new circumstances in the market for airport services, the changes in ownership of airports in the southeast of England and position of Gatwick Airport.

### **Rationale and objectives – developing competition guidelines**

6. The assessment of an airports conduct will clearly be an important part of the competition assessment. In the CAA's consultation paper these factors are dealt with in paragraph 4.13 where they are described as 'types of evidence that could be used to indicate the existence of market power'. The factors that are covered, such as the level of prices relative to competitive levels and restrictions on supply, would normally be considered evidence of the exercise (rather than the existence) of market power. More importantly, one of the factors – high profitability – may result from superior efficiency or other competitive advantages and so should not by itself be considered evidence of either the existence or exercise of market power.
7. We note that in paragraph 4.14 the CAA explains that it 'intends to look not just at evidence from UK airports, but also, where possible at other European Airports'. It is not clear why the CAA is restricting its analysis to European Airports, if there are useful lessons from overseas experience, including from outside Europe, then this should be considered by the CAA. We would also expect the CAA to publish or make available any studies or information on international comparisons which it takes into account in reaching decisions on its approach to assessing competition.



### **Rationale and objectives – alternative approaches to price controls**

8. We note the important work undertaken by the CAA in the recent Stansted price control review relating to alternative approaches to price control. In designing mechanisms to better reflect the conditions that would be expected in a competitive market it will be important for the CAA to adopt assumptions consistent with best commercial practice, including in relation discount rates and time periods over which commercial investors assess returns and make financing available.

### **Way forward and stakeholder engagement**

9. Gatwick Airport welcomes the scheduled consultations and the plans to give stakeholders the opportunity to discuss the work programmes in person. We also support the project plans set out in paragraphs 5.16 to 5.17 and the timetable set out in Annex A of the consultation document.
10. If there are any proposals to change the arrangements for stakeholder engagement we would expect to be fully consulted before such changes were finalised and introduced.

### **Conclusions**

11. As noted above Gatwick Airport welcomes this consultation, the proposed work streams and the opportunity of working with the CAA and stakeholders to develop new arrangements that encourage competition and commercial behaviour by airports.

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