



News Release

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BAA ORDERED TO SELL THREE AIRPORTS

CC publishes final decisions in BAA market inquiry

The Competition Commission (CC) will require BAA to sell both Gatwick and Stansted as well as either Edinburgh or Glasgow.

In its final report on BAA's ownership of seven UK airports, published today at www.competition-commission.org.uk, the CC also stipulates that BAA must sell all three airports within two years. They are to be sold in sequence, beginning with Gatwick, then Stansted, followed by either Edinburgh or Glasgow. The sale of Gatwick was initiated by BAA in September 2008 and the sales process is already under way.

The CC is also requiring BAA at Aberdeen to improve consultation with airlines as well as publish certain financial and other information. In addition, the CC is recommending to the airports' regulator, the Civil Aviation Authority (CAA), that it should take certain specified action at Heathrow, the UK's only hub airport, where BAA will continue to have substantial market power even after the sale of Gatwick and Stansted. Further, the CC is making recommendations to the Government on aspects of government airports' policy, as well as on matters arising from the inquiry on the shortcomings of the current airports' regulatory system to be taken into account in their current review of the need for, and design of, a more effective and more flexible regulatory system.

The CC's final report takes into account the substantial evidence received from BAA, the airlines, the CAA and many other parties over almost two years, including the further evidence since the publication in August 2008 of the provisional findings and proposals on possible remedies. The report finds competition problems with adverse effects for both passengers and airlines at all seven of BAA's UK airports (Heathrow, Gatwick, Stansted and Southampton in the South of England, and Edinburgh, Glasgow and Aberdeen in Scotland). A key problem at BAA's airports in the South-East and in lowland Scotland is common ownership which precludes any competition between them. There are additional problems at the London airports arising from the current system of regulation, planning and aspects of Government policy. The problems at Aberdeen derive from its isolated geographical position giving it the characteristics of a local monopoly.

Christopher Clarke, Chairman of the BAA Airports inquiry, said:

We have decided that the only way to address comprehensively the detriment to passengers and airlines from the complete absence of competition between BAA's south-east airports and between Edinburgh and Glasgow is to require BAA to sell both Gatwick and Stansted as well as either Edinburgh or Glasgow. They will each then operate under separate ownership from BAA's other airports. We recognize that in using our powers in this way, we will have a significant impact on BAA's business. However, given the nature and scale of the competition problems we have found, we do not consider that alternative measures, such as the sale of only one of the London airports or greater regulation, will suffice.

We are confident that the sale of these airports will bring substantial benefits to passengers and airlines. We expect that the new airport owners, with the operating capabilities and financial resources to develop them as effective competitors, will have a much greater incentive than BAA to be more responsive to their customers. We also expect further benefits from BAA's own response to the action taken by these new competitors.

Such action can take a number of forms, including lower prices, improved levels of service and more efficient investment in response to customers' needs. As a result, airlines and their passengers, as well as freight companies, will benefit from airport operators being more customer focused. Some of these benefits can be expected from the outset of these airports being under separate ownership, others may take longer. Indeed, some, such as those resulting from competition in delivering new runway capacity at Stansted and Heathrow, may be some years away.

Competition is a dynamic process which derives from the rivalry between different companies. The sale of these airports will, therefore, kick-start a process of competitive rivalry from a standing start where today there is no competition at all. The precise pace and the precise ways in which the benefits from such competition will emerge may be uncertain but we are confident that the benefits will build over time, driven by the momentum of the development of competition, and will be significant, as has proved to be the case at other airports in the UK where there is already competition.

We are requiring BAA to sell all three airports within two years. To ensure an orderly sales process and in recognition of current market conditions, we consider it sensible for them to be sold in sequence, beginning with Gatwick, then Stansted, followed by either Edinburgh or Glasgow. Although we consulted on the basis that there might be competition factors which favoured the sale of Edinburgh over that of Glasgow, we have concluded that the case is not sufficiently strong to favour one over the other, so we have decided that it is appropriate for BAA to have the choice.

There are certain competition problems we have identified where we have decided that responsibility for the remedy best lies with parties other than the CC.

At Heathrow, the UK's only hub airport, BAA will continue to have substantial market power even after it no longer owns either Gatwick or Stansted. To address the shortcomings in appropriate investment, there is a need for improved consultation between BAA and the airlines, including the provision of necessary information and better processes of consultation. We recognize that there have already been some improvements but there is further to go. We could

impose obligations on BAA ourselves, but given that the airport is already regulated by the CAA, this would add another layer of regulation and could raise practical difficulties. Accordingly, we are recommending that the CAA should take the lead. Given the enhanced role for the CAA envisaged by the Government in the new regulatory regime in facilitating dialogue and resolving disagreements, we consider that this is particularly apt. We are making similar recommendations to the CAA to take additional measures to encourage further improvements in the quality of service.

There are two other areas where responsibility for action properly lies elsewhere than with ourselves, in this case with the Government. First, we are recommending that the Government should consider the impact of policy on the aviation market, particularly in the South-East in the light of the divestitures of Gatwick and Stansted. It should ensure that in developing the National Policy Statement (NPS) on airports, it does not unduly constrain the market. Second, our inquiry has provided significant evidence on lessons for improvements to the system of airport regulation. We are, therefore, making specific recommendations to the Government, particularly in the areas of the objectives and duties of the regulator, and of appeals against decisions by the regulator. In both cases, we are drawing on our long experience of airport regulation and of appeals against decisions by regulators in other sectors. In addition, and very important, we have addressed how the new regulatory system can ensure that regulation is relaxed or even removed as competition develops. We have already contributed to the work the Department for Transport (DfT) has been doing in its consultation on regulatory reform and we envisage that it will take into account the detailed views in our report today, obviously setting them alongside those of others.

The main remedies set out in our report are as follows:

- We will require the sale of both Gatwick (although BAA has already started the sales process) and Stansted airports to different purchasers, as well as one of Edinburgh or Glasgow airports. A monitoring trustee will oversee the sales processes.
- With the Gatwick sales process already under way, BAA will next be required to sell Stansted, followed by either Edinburgh or Glasgow, at its discretion. The dates by which each of the sales has to be completed is not being published so as not to prejudice an effective sales process; but the end date is less than two years from the date of our report. If the sales are not completed by the specified dates, the CC reserves the right, in each case, to appoint an independent divestiture trustee to carry out the sales. The timetable may be subject to revision should a material change in circumstances make this appropriate.
- BAA will be required to sell the divestiture airports to suitable purchasers approved by the CC. They should be independent of BAA, should have the intention, appropriate expertise and financial resources to operate and develop the airports as effective competitors and should not create further competitive concerns as a result of divestiture.
- At Aberdeen, BAA must improve consultation with airlines as well as publish certain financial and other information.

Ahead of any longer-term changes to airport regulation introduced by the DfT, we are recommending to the CAA that:

- It should strengthen the consultation process at Heathrow through the provision of necessary information and better processes of consultation between BAA and the

airlines, as well as introducing annual independent audits of the existing service quality regime.

In relation to airport regulation, we fully support a licensing regime of the kind proposed by the DfT, as it would introduce more flexibility to the regulation of airports; for example, the regulator would be able to relax the intensity of regulatory scrutiny, where it saw opportunities for increased competition. We have also recommended to the DfT that:

- The regulator's primary objective should be the promotion of the consumer interest wherever possible through the promotion of competition. There should be an ancillary duty to consult and pay due regard to the views of airlines as well as to consult designated passenger groups and airport operators.
- Appeals against price control and service quality licence modifications made by the regulator should be made to the CC. The right to appeal should lie with the relevant airport, individual airlines and designated passenger groups.
- Legislation should be amended to allow for terminals to be developed or redeveloped and operated separately from runway facilities.

In relation to airports policy, we are recommending to the DfT that:

- It should, in the context of the development of the forthcoming NPS on airports, consider the impact of the White Paper on the aviation market, particularly in the South-East in the light of the divestment of Gatwick and Stansted. It should ensure that the NPS on airports does not unduly constrain this market and should give consideration to the ambitions of the new owner of Gatwick Airport, including the possibility of a second runway after 2019.

The main competition problems identified in our report are as follows:

- Common ownership of Edinburgh and Glasgow airports is a feature which prevents competition between them.
- Common ownership of the three BAA London airports is a feature of the market which prevents competition between them; the intensity of price competition may initially be limited by current capacity constraints and price controls, but these constraints are themselves at least in part the result of common ownership.
- Common ownership of Southampton with Heathrow and Gatwick is a feature of the market which prevents competition between them; there is scope for competition from Heathrow and Gatwick to have an impact on Southampton, although the potential for competition to have an impact on Southampton is greater from Gatwick than Heathrow.
- Common ownership of the BAA London airports is also a feature of the market that, inter alia, restricts or distorts competition between airports in relation to capacity development.
- Common ownership of the BAA London airports also exacerbates the inadequacies of the regulatory system, reducing the benefits of regulation and distorting competition between airlines.
- Aberdeen's comparatively isolated geographical position relative to other centres of population combined with other factors that make it unattractive to serve a catchment of Aberdeen's size with more than one airport and that deter entry are features that restrict airport competition.

- Heathrow's position as the only significant hub airport in the South-East, and indeed the UK, is itself a feature that restricts competition between airports.
- Aspects of the planning system are a feature which restricts and/or distorts competition by acting as a barrier to entry of new airports and expansion of existing ones.
- Aspects of government policy are features which restrict or distort competition between airports.
- The current regulatory system for airports is also a feature which distorts competition between airlines.

Notes for editors

1. The CC is an independent public body, which carries out investigations into mergers, markets and the regulated industries.
2. The Office of Fair Trading (OFT) made the reference to the CC on 29 March 2007. The CC was asked to determine whether there are any features of the market that prevent, restrict or distort competition and, if so, what remedial action might be taken.
3. On 20 August 2008, the CC published its provisional findings report, which found competition problems at each of BAA's seven UK airports (Heathrow, Gatwick, Stansted and Southampton in England, and Edinburgh, Glasgow and Aberdeen in Scotland) with adverse consequences for passengers and airlines. It stated that a principal cause is their common ownership by BAA but that there are also competition problems arising from the planning system, aspects of government policy and the system of regulation.
4. Also on 20 August 2008, the CC published a notice of proposed remedies and following discussions with all interested parties including BAA, the airlines, the CAA and the DfT, on 17 December 2008, the CC published its decision on which measures it proposed to enforce or recommend.
5. The members of the Airports inquiry group are Christopher Clarke (Group Chairman and CC Deputy Chairman), Laura Carstensen, Dr John Collings, Professor Jonathan Haskel, Richard Holroyd and Professor Peter Moizer (until 3 March 2009).
6. In 2006 BAA was acquired by Airport Development and Investment Ltd (ADI), a wholly-owned subsidiary of FGP Topco Ltd, in which, as of 6 June 2008, Grupo Ferrovial, SA held 55.87 per cent of the ordinary shares. The other two shareholders in FGP Topco Ltd are Britannia Airport Partners LP (26.47 per cent), which is managed by Caisse de dépôt et placement du Québec, and Baker Street Investment Pte Ltd (17.65 per cent), a subsidiary of GIC Special Investments Pte Ltd.
7. Under the Enterprise Act 2002, the OFT can make a market investigation reference to the CC if it has reasonable grounds for suspecting that competition is not working effectively in that market.
8. Enquiries should be directed to Rory Taylor on 020 7271 0242 or rory.taylor@cc.gsi.gov.uk.