

BAA AIRPORTS MARKET INVESTIGATION

Heathrow consultation protocol: note on process

BAA remedies concerning Heathrow are set out in paragraph 10.377(c) of our [report](#) published on 19 March 2009: BAA airports market investigation: A report on the supply of airport services by BAA in the UK (the report).

BAA and the airlines commenced negotiations in May 2009 with the aim of reaching agreement on a revised consultation protocol at Heathrow. However, despite significant progress having been made in producing a draft document, there remain a number of issues that appear unlikely to be resolved by the airlines and BAA alone in the near future.

In December 2009, the Civil Aviation Authority (CAA) published its terms of reference for its interim assessment of capital expenditure and consultation at Heathrow and Gatwick airports (the interim review), which is to be carried out between January and October 2010. This creates a significant overlap that would not have existed had the airlines and BAA reached an agreement within the timescales set in the report. In order to avoid carrying out two parallel processes of consultation on similar issues that sit under different legislative frameworks the CAA has agreed to accept specific recommendations from the Competition Commission (CC) unless there is a conflict with the CAA's statutory duties.

Taking these factors into account, we consider that the following process will allow the CAA and CC to fulfil their respective statutory duties in the most efficient way:

1. The CC and the CAA will work collaboratively in gathering views from BAA and airline representatives on the remaining areas of disagreement and how the consultation protocol in place at Heathrow should be modified. It is envisaged that this will be implemented through a series of meetings between the CC, the CAA and each of the relevant airline representatives and BAA. The CC and CAA will jointly chair these meetings.
2. Having considered the evidence gathered, the CC will make recommendations to the CAA on specific changes to be made to the Heathrow consultation protocol to satisfy the requirements set out in paragraphs 10.248 to 10.250 of the report. The CAA will carry out its own assessment of the evidence as part of its interim review.
3. The CAA has agreed to adopt the CC's specific recommendations providing that they are consistent with its statutory duties. If the CAA is unable to accept all of the CC's specific recommendations, the CC may take steps towards imposing an order or seeking undertakings from BAA under the Enterprise Act 2002. In making this assessment, the CC will have regard to the need to achieve as comprehensive a solution as is reasonable and practicable.

The CC and CAA will conduct meetings with BAA and airline representatives on areas of disagreement with regard to the Heathrow consultation protocol over the next two months. The CC expects to publish its specific recommendations to the CAA in August 2010.

Anyone who has queries about the process outlined above may contact the CC by [email](#).