

BAA AIRPORTS MARKET INVESTIGATION

Guidance on the CC's assessment of the consultation protocol between BAA and the Heathrow airlines

As set out in paragraph 10.255 of our [report](#), we have made a recommendation to the Civil Aviation Authority (CAA) to take the lead in implementing the Competition Commission's (CC) remedy to improve airline consultation, including the provision of appropriate information and the process of consultation. We envisaged that this should probably be a revision of Annex G, which would take into account Annex M of our [recommendation at Stansted](#).

We stated in paragraph 10.257 that we would provide guidance setting out how we would assess whether the proposed new consultation protocol adequately addresses the detrimental effects of the adverse effects on competition (AEC) we have found.

Against this background, the revised consultation protocol should fulfil three complementary objectives:

1. to ensure that the views of the Heathrow airlines are sought on all aspects of the capital expenditure programme which have the potential to affect their competitiveness, including their operational efficiency, level of customer service and operating costs;
2. to ensure that the Heathrow airlines are not at an information disadvantage when providing views to BAA on the suitability of any capital expenditure project proposed by BAA; and
3. to ensure that the views of the Heathrow airlines are reasonably taken into account by BAA in deciding to pursue capital expenditure projects.

The CC's assessment will focus on the process by which BAA reaches an agreement with the airlines, rather than the content of the consultation protocol itself. The CC will also review the ability of the new consultation protocol to satisfy the objectives set out above. In particular, the CC will take into account:

1. evidence that in seeking agreement with the airlines on the provision of information and the process of consultation, BAA has followed the principles set out in paragraphs 10.248 to 10.250;
2. evidence of BAA's best endeavours to incorporate the requirements of the airlines operating from Heathrow on the provision of information and the process of consultation at Heathrow;
3. where airlines' views differ, evidence that BAA has reached a reasonable compromise between the differing views; and
4. the views of the CAA on the reasonableness of the processes adopted by BAA and decisions made by BAA in seeking to implement the principles set out in paragraphs 10.248 to 10.250.

The CC may consider it acceptable for the proposed protocol to exclude certain requirements of the airlines, if BAA can demonstrate to the CC that these specific requirements would be against its legitimate commercial interests, the commercial interests of other parties or the interests of passengers.

In making its assessment, the CC will attach considerable weight to a formal endorsement of the proposed consultation protocol by the airlines and their representative bodies.