

## Market Investigation into supply of airport services by BAA

### Statement of issues

1. The reference by the Office of Fair Trading on 29 March 2007 requires us to investigate whether any feature, or combination of features, of the market or markets for airport services in the UK as exist in connection with the supply of airport services by BAA Limited (BAA) prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the UK or a part of the UK. A feature can relate to the structure of the market, or conduct of any supplier or customer of any supplier in that market.<sup>1</sup> If so, there is an 'adverse effect on competition' (AEC).
2. If the Competition Commission (CC) decides that there is an AEC, it is required under Section 134(4) of the Enterprise Act 2002 (the Act) to decide whether action should be taken by it, or whether it should recommend the taking of action by others, for the purpose of remedying, mitigating or preventing the AEC concerned or any detrimental effect on customers<sup>2</sup> so far as it has resulted from, or may be expected to result from, the AEC; and, if so, what action should be taken and what is to be remedied, mitigated or prevented.
3. This issues statement sets out a summary of the issues raised with us to date and which we will be considering in much more detail as the inquiry progresses, in order to give parties the chance to submit any further comments on this document, or on material on the CC website, or any other points they may wish to raise.
4. The reference covers the seven airports owned by BAA. There are four in the South of England: Heathrow, Gatwick, Stansted and Southampton, of which the first three are designated under the Airports Act requiring the Civil Aviation Authority (CAA) to regulate the maximum level of airport charges at these airports.<sup>3</sup> The remaining three are in Scotland: Edinburgh, Glasgow and Aberdeen.
5. Following a reference to us by the CAA on 30 March 2007, we are also currently carrying out an inquiry into the maximum level of airport charges at Heathrow and Gatwick for the five years beginning on 1 April 2008. That inquiry also requires us to examine whether either of the two BAA subsidiaries (Heathrow Airport Limited and Gatwick Airport Limited) which operate those airports has pursued a course of conduct adverse to the public interest in the period (of about five years) since the previous such reference to us. We published an issues statement on that inquiry on 13 July 2007. As we noted in that statement, there is potentially some overlap of issues between the two inquiries, although the legal framework for the two inquiries is quite different. It is possible that some of these issues may prove to be more appropriately considered in this market inquiry, for example if they do not fall within the terms of reference or scope of any preferable possible remedies under the

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<sup>1</sup>Section 134 of the Act states (section 131(2)) that, for the purpose of a market investigation reference, a feature of a market in the UK shall be construed as:

(a) the structure of the market concerned or any aspect of that structure;  
 (b) any conduct (whether or not in the market concerned) of one or more than one person who supplies or acquires goods or services in the market concerned; or  
 (c) any conduct relating to the market concerned of customers of any person who supplies or acquires goods or services.

<sup>2</sup>A detrimental effect on customers is defined in section 134(5) of the Act as one taking the form of:

(a) higher prices, lower quality or less choice of goods or services in any market in the UK (whether or not the market to which the feature or features concerned relate); or  
 (b) less innovation in relation to such goods or services.

<sup>3</sup>On 25 July 2007, the Department for Transport issued a consultation document, for response by 17 October, on whether Stansted airport meets the criteria for designation or dedesignation under the Airports Act. It also published CAA's advice that Stansted airport should be dedesignated. The same document raised the same questions on Manchester Airport.

Airports Act, or if they also apply to other BAA airports, or if our investigation into them would benefit from the longer time available to us under the market inquiry.

6. The reasons for the reference are well set out in the decision document of the Office of Fair Trading (OFT), which is reproduced on our website ([http://www.competition-commission.org.uk/inquiries/ref2007/airports/pdf/oft\\_reference\\_to\\_the\\_cc.pdf](http://www.competition-commission.org.uk/inquiries/ref2007/airports/pdf/oft_reference_to_the_cc.pdf)).
7. The OFT's view in paragraph 1.6 to 1.15 of that document is that in Lowland Scotland, BAA's ownership of Edinburgh and Glasgow limits competition between these two airports; and that in the South-East of England its ownership of Heathrow, Gatwick and Stansted limits competition to promote the delivery of extra capacity in a timely and efficient manner. It also has concerns about the impact of the current regulatory framework, particularly on incentives to investment; refers to evidence of poor quality of service; and also believes lack of competition may lead to higher charges and costs. The potential adverse effects relate, however, to a combination of features:
  - (a) joint ownership, with very high regional market shares;
  - (b) regulation; and
  - (c) development restrictions and capacity constraints.
8. The OFT's reference also includes Southampton and Aberdeen. The OFT stated a preliminary view that Southampton was potentially part of the same relevant geographic market as Heathrow, Gatwick and Stansted but the OFT did not regard it as necessary to determine this. On the other hand, it suggested that Aberdeen operated in a separate geographic market to Glasgow and Edinburgh.
9. BAA is owned by Airport Development and Investment Ltd (ADI), in turn a wholly owned subsidiary of FGP Topco Ltd, in which Grupo Ferrovial SA (Ferrovial) has a majority holding through two of its subsidiaries. (The other two shareholders are Airport Infrastructure Fund L.P, which is managed by Caisse de dépôt et placement du Québec, and Baker Street Investment Pte Ltd, a subsidiary of GIC Special Investments Pte Ltd). No concern was raised by the OFT or, as far as we are aware, others about Ferrovial's ownership of one other UK airport, namely Belfast City airport.

## **Market definition**

10. The CC identifies the relevant market, or markets, in order to provide the framework within which our assessment of competition and the effects of market features can be carried out. Market definition is not an end in itself, but defining the relevant product market(s) and establishing the relevant geographic dimension of those market(s), may be a useful tool in assessing competition.<sup>4</sup>
11. Demand for airport services is a derived demand—it is derived from the demand for air transport. This means that a change in price or quality of airport services can affect demand through either or both of two means:
  - (a) Directly, as a result of substitution by airlines. An increase in one airport's charges may induce one or more airlines to shift some or all of their flights to

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<sup>4</sup>See *Market Investigation References: Competition Commission Guidelines*, CC3, Competition Commission, June 2003.

other airports (including future expansion plans), which may in turn lead to a switch by some or all of the passengers previously using those flights.

- (b) Indirectly, through downstream effects: by affecting airline fares and inducing substitution by airline customers (or their deciding not to travel at all). An increase in one airport's charges may cause the airlines operating from that airport to increase its prices which may induce passengers to shift to airlines operating from other airports. Where passengers are interlining, this may involve using a different hub or hubs but keeping the same origin and destination airports.

It is likely therefore that we will wish to consider substitution by both airlines and passengers. We will also need to take into account developments in the structure of the airline industry, such as the increasing significance of low-cost carriers (sometimes referred to as low fares airlines), possibly extending further into long-haul as well as short-haul services, their different requirements from those of other airlines, and the importance of low airport charges for competition between the low-cost carriers and other airlines; and the recent development of other airline services specializing in different sectors of the market such as long-haul premium services.

### ***Product market definition***

- 12. We have seen no evidence to suggest that airport services as defined in the terms of reference cannot be regarded as a relevant market under the Act. We may, however, also need to consider:
  - (a) Whether to define one bundled market for airport services or a number of markets for different services provided by BAA or by other suppliers under arrangements made with BAA: for example, distinguishing some of the separate services provided for airlines such as the ground handling services licensed by BAA, or the separate commercial services for passengers such as catering, retail or car rental services, or car parking. Even if it is appropriate to define a number of markets, some of the factors affecting each of them may be similar; on the other hand some suppliers of services at airports have suggested that each airport is a local monopolist in the market for provision of particular services at that airport.
  - (b) Whether some services, such as the supply of airline offices or car parking, are affected by off-airport competition, although aeronautical services (those used in connection with the landing and parking of a plane and boarding/disembarkation of its passengers) are not. To the extent that issues arise in regard to off-airport competition it may be appropriate, in relation to those issues, to define a separate product market, eg for airport car parking.
  - (c) Whether there should be any subdivision by services to different categories of airline. One suggestion to us is of airport services which enable distinct hub & spoke, point-to-point, or cargo operations. Another possible subdivision is between airport services for short-haul and long-haul operations.

### ***Geographical market definition***

- 13. Demand for airports depends on location, and geographical market definition is potentially highly relevant to the analysis of competitive effects. The OFT preliminary market definition involved three broad geographical markets in which BAA airports competed: the South-East and East Anglia (including Heathrow, Gatwick, Stansted

and Luton); Lowland Scotland (including Edinburgh, Glasgow and Prestwick); and the North of Scotland (including Aberdeen). The OFT did not reach a view on whether the market in the South-East and East Anglia was limited to major airports or should also include smaller airports in the region (such as Southampton). At a high level, issues for us to address in the context of this market inquiry include:

- (a) What is the appropriate market for the analysis of competitive effects involving Heathrow, Gatwick and Stansted—between each of these airports and between these and other airports?
  - (b) Is it appropriate to include Southampton in the same market, as one airline has argued to us?
  - (c) Are Edinburgh and Glasgow in the same market and should other airports such as Aberdeen and/or Prestwick, for example, be included in any such market?
14. There are also some more technical issues associated with our usual approach to market definition, which involves the test of whether a hypothetical monopolist (HM) could profitably impose a 5 per cent price increase:
- (a) As noted by the OFT, the relevant market definition may depend on the specific competition concerns being analysed. For example, competition between BAA and off-airport car parks at Gatwick would probably need to be addressed within a geographical market limited to Gatwick (it being highly unlikely that Heathrow, Luton and Stansted car parks are a substitute for Gatwick car parks). On the other hand, the common ownership by BAA of two or more potentially substitutable airports would need to be addressed within a wider market.
  - (b) In a market inquiry, the HM test should ideally be applied at competitive prices. However, each airport may have some market power within some geographical area, so it may have already raised prices above the competitive level potentially making it difficult to interpret customers' preferences (this problem is often referred to as the 'cellophane fallacy'). However, it is also possible that a regulated airport's prices are capped below the notionally competitive level which would have the opposite effect, at least as regards airline preferences.<sup>5</sup>
  - (c) The HM test states that if a HM could not impose a 5 per cent price increase, the market should be expanded to include the closest substitute. A point made to us is that substitute airports may vary according to the type of passenger. For example, transfer passengers may be able to substitute between British Airways at Heathrow and other airlines with different hubs (eg Paris CDG, Frankfurt, Schiphol) while point-to-point passengers may potentially substitute between Heathrow and other London airports. Leisure passengers may be more willing than business passengers to use airports that are further from their homes—and the same probably also applies to charter passengers compared with scheduled passengers. Alternative modes of transport, in particular rail services, may also be available for passengers using some air services. In principle, the HM test can cope with this: if a price rise is not profitable, the market is expanded to include the other airport (or mode of transport) that is exercising the greatest constraint on prices.

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<sup>5</sup>Passenger preferences would also be affected to the extent that lower airport charges are passed on in lower airline fares.

- (d) Markets are not unique.<sup>6</sup> In this inquiry, a narrow market definition may not be appropriate for assessing all aspects of competition, in particular common ownership of adjoining airports—it may underestimate the adverse effects of common ownership. For example, individual owners of airports in two reasonably close cities (say Edinburgh and Glasgow) may be able profitably to increase prices by, for example, 5 per cent above the competitive level. Beyond this increase, further increases are not profitable for individual owners due to losses of business to the other airport, these airports being each others' strongest competitors. However, a common owner of these two airports would be able to increase prices further above the level that individual owners would charge, since its profitability would not be affected by any loss of business from one airport to the other.

We are therefore likely to consider the various market definitions relevant to the particular issues being examined.

## Competitive effects

15. We will assess the extent of competition in the relevant markets and whether there are any features that prevent, restrict or distort competition in any market (effects in both airport and airline markets are likely to be relevant). A likely starting point for our analysis is an assessment of the extent of market power held by each BAA airport. Information we are likely to consider (which is also relevant to geographical market definition and assessment of some market features, in particular common ownership) includes:
- (a) Current evidence on the extent of overlaps between different catchment areas, although these reflect the routes currently offered at the airports and, it was suggested to us, may consequently reflect the current lack of competition between airports.
  - (b) The determinants of passenger choice of airports: accessibility to the airports (in particular journey time from/to a passenger's ultimate origin/destination), and the range and frequency of services available from them.
  - (c) The determinants of airline choice in serving a particular geographical market, including airport characteristics and airline characteristics, such as their sunk costs at the airport and switching costs to move from it, and their operational requirements, such as runway length, whether their base operation is at the airport, and whether they use the airport as a hub for their own operations or as a network hub with other airlines.
  - (d) The extent to which capacity constraints limit airlines' ability to switch airports within a particular geographic market.
  - (e) Whether, and to what extent, it is attractive for airlines to switch aircraft to different geographical markets (for example to routes elsewhere in Europe or the world).
16. The OFT's analysis of market features distinguished between the South-East of England and Scotland. Although we have reached no decision on the appropriate geographical market, it is helpful to follow this distinction in setting out the issues as

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<sup>6</sup>Bishop and Walker (*The Economics of EC Competition Law*, Sweet and Maxwell, 2002) state: 'A common misconception is that market definitions are independent of the particular competition issue at hand. This is not so.'

there are significant differences between these two areas. We now summarize in paragraphs 17 to 21 the general considerations relevant to assessing competition between airports; then in paragraphs 22 to 28 the issues specific to the BAA Scottish airports; and in paragraphs 29 to 50 those specific to BAA's airports in the South of England.

### **The relevant characteristics of the markets**

17. We will need to consider three main characteristics of the markets from which we may find some features which have an AEC: development restrictions and capacity constraints (to which may be added other constraints on supply of airport services); regulation; and common ownership by BAA.

### ***Development restrictions and capacity constraints***

18. As noted above, the OFT identified both development restrictions and capacity constraints, the alleviation of which could be inhibited by such development restrictions, as potentially causing an AEC.
  - (a) A number of airlines suggested to us that lack of spare capacity was likely to reduce the extent of competition in the short term. The main capacity constraint is the maximum number of air traffic movements (ATMs), which depends on the number of runways and airspace restrictions; restrictions on the number of air traffic movements will in turn restrict the number of passengers that can use an airport but depending on the capacity and load factor of the aircraft using the airport. The effect of runway and airspace restrictions on competition between airports and airlines may also depend on the availability of slots through trading and other mechanisms for airlines wishing to increase or establish operations at an airport. But airport capacity may also be constrained by terminal, apron, stand or surface access capacity and by airspace capacity. Airspace is subject to its own planning system. The ability of the environment to disperse chemical pollution, as well as considerations of noise pollution, has also become a significant capacity constraint, particularly at Heathrow.
  - (b) Planning restrictions could give rise to an AEC by making entry and expansion difficult or even impossible. Planning restrictions and difficulties in obtaining planning permission are most significant in relation to runway capacity (where planning conditions often limit the number of ATMs), terminal capacity and surface access capacity, although proposals have recently been put forward by government to reduce the delays in the planning process that have previously occurred. As well as the possibility of refusal of planning permission, the length of time and expense involved are likely to deter entry and expansion.
  - (c) AECs could arise even when existing airports are operating below capacity as entry and expansion is unlikely to be possible in response to a price increase by an existing airport. We would, for example, need to consider the implications of the 2003 White Paper on the likelihood of new entry or expansion of existing airports.
  - (d) However, airports may also have some of the characteristics of local natural monopolies. Sunk costs at airports and indivisibilities and economies of scale both at airports and for airlines together with demand complementarities may mean customer demand can be met more economically by a single airport (local natural monopoly): some passengers, for example, may prefer the availability of more frequent flights from one airport than less frequent flights from each of two

airports close to one another and for given passenger demand it may be cheaper to operate several flights a day from one than two airports.<sup>7</sup>

- (e) Starting up a new airport also normally involves making large, high-capacity investments. For example, even a small new airport would need a runway, potentially capable of handling around 40 million passengers a year. Unless such a new airport is able to exploit existing infrastructure, for example by using a former military site, establishing it is therefore likely to be an unusually risky, high-cost venture, although modern financing techniques may allow such investment to take place.
- (f) As a consequence, even in the absence of planning restrictions, there may be a single airport serving a locality which could have an ability to price above both marginal and average cost. This factor may be most relevant to more isolated cities such as Aberdeen. The CAA, however, suggested that UK airports did not appear to possess the cost characteristics associated with natural monopoly businesses which would suggest there is the potential for airports to compete.

## **Regulation**

19. The main aspects of regulation we have to consider are as follows:

- (a) All airports at which annual turnover has exceeded £1 million in two of the last three years are subject to 'economic regulation' by the CAA. This enables the CAA to investigate and act to prevent an airport from unreasonably discriminating or unfairly exploiting its bargaining position (subject to appeal by the airport to the CC). The CAA has used its powers sparingly and has recently said that it would generally expect to apply the relevant powers in a way that was in line with the Competition Act and Article 82. Nonetheless, we may need to consider whether economic regulation could distort competition, for example by discouraging price discrimination.
- (b) There is also a proposed European Directive on airport regulation which could have effects in future, both as regards price discrimination and more generally eg by allowing each airline to appeal its prices to a national regulator.
- (c) Analysis of the effects of price discrimination would require consideration of whether price discrimination could be regarded as promoting airport competition (by enabling individual airlines to negotiate lower airport charges, for example by playing off one airport against another, thereby facilitating airline entry to new routes<sup>8</sup>) or whether it might be regarded as distorting competition between airlines (since some airlines get a worse deal than others).
- (d) As noted in paragraph 4, Heathrow, Gatwick and Stansted are also designated under the Airports Act requiring the CAA to regulate the maximum level of airport charges at these airports. As well as considering whether such regulation may itself be a feature of the market giving rise to an AEC, we may also need to consider whether regulation has the effect, as it is intended to do, of to some extent reducing the adverse effects on users that would otherwise result from any limitation on competition in the relevant market or markets; or, the concern of a number of airlines from whom we heard (and to which we refer in more

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<sup>7</sup>Network effects related to hub and spoke operations by airlines are also relevant at airports where a significant amount of traffic comes from interlining passengers (relatively few British airports come into this category).

<sup>8</sup>Entrants to new routes tend to benefit from particularly favourable deals.

detail in paragraphs 33 and 34), whether there may be weaknesses in the regulatory regime that limit its effectiveness in doing so.

### ***Common ownership of airports by BAA***

20. The main economic factors relevant to considering whether BAA's common ownership of airports gives rise to an AEC, and the significance of any such effects, are likely to be:
- (a) Wider evidence on the extent to which separately owned airports compete. Examples have been quoted to us of competition between airports in the UK and elsewhere. In the UK, competition has been particularly to attract low cost carriers and from airports where there has been spare capacity available for new operators or for additional services. The CAA told us its Regional Air Services study<sup>9</sup> had documented evidence of increased competition between the UK regional airports for airlines and passengers.
  - (b) The extent of potential demand substitutability between the airports: and the potential to switch by both airlines and passengers (taking into account the factors set out in paragraph 15).
  - (c) Any features of the market, for example capacity constraints, that reduce the intensity of competition between independently owned airports. However, the existence of such effects may only reduce the size of, but not eliminate, the adverse effects from common ownership. Furthermore, the existence of such effects, which in the context of a merger we would term unilateral effects, might well be a reason for greater concern about highly concentrated markets. For example, the existence of features making unilateral effects more likely would be a reason for increased concern about a merger in a concentrated market.<sup>10</sup>
  - (d) Coordinated effects, that is the ability of independently owned airports to coordinate prices or investment decisions without overt collusion. As with unilateral effects, these may be thought only to reduce, but not necessarily eliminate, adverse effects of common ownership.
  - (e) The effect of joint ownership on the incentives for both capital expenditure and operations (including both service levels and efficiencies). In relation to capital expenditure—in terminals, runways, ancillary facilities, and other facilities including security—common ownership could affect the incentives as to the quantity and level of expenditure; the scope, specification, configuration and balance of the investment programme; and the quality, location and timeliness of investment. In relation to operations, common ownership could affect the incentives to improve the levels of service (including recently and most notably security operations) and general operating efficiencies.
  - (f) Whether common ownership may also result in BAA having less interest in its smaller airports—Aberdeen and Southampton—resulting in lack of innovation and entrepreneurial zeal.
  - (g) Other evidence on the performance of the airports, including pricing, profitability, investment and service.

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<sup>9</sup>UK regional air services', CAA, February 2005.

<sup>10</sup>See *Merger References: Competition Commission Guidelines, CC2*, Competition Commission, June 2003.

21. We will also have regard to the significance of any AEC in terms of its adverse effects on prices, efficiency or quality of service, including any effects on investment.

## **The Scottish airports**

### ***Development restrictions and capacity constraints***

22. In Scotland, existing airports do not generally appear to be significantly constrained by runway capacity. But we may need to consider whether planning delays could be a factor affecting the speed with which other facilities (eg terminals) can be expanded (although there have been few suggestions that this has recently occurred) and whether there may be shorter term constraints arising, eg from capacity of passenger terminals, which might limit competition.
23. Also as noted in paragraph 18, customer demand may be met more economically by a single airport (local natural monopoly); hence even in the absence of planning restrictions, not only may there be only a single airport serving a town or city but this airport could have an ability to price above both marginal and average cost, a factor that may be particularly relevant to a city such as Aberdeen.
24. Prestwick has recently expanded rapidly, and we are aware of entry and expansion in other parts of the UK, such as Liverpool and Robin Hood Doncaster, but we have seen no evidence of possible entry or expansion by other airport operators in Scotland.

### ***Regulation***

25. The BAA Scottish airports are not designated and the maximum level of their airport charges is not therefore subject to regulation; increases in charges have, however, been subject to voluntary price caps by BAA of RPI-3 at Edinburgh and Glasgow (ie charges increasing at no more than RPI minus 3 percentage points a year) and RPI-1 at Aberdeen. But we may nonetheless need to consider whether the other aspects of the regulatory framework set out in paragraphs 19(a) to (c) could potentially have an AEC.

### ***Common ownership of airports by BAA***

26. CAA figures show the following shares of airport passengers in Scotland in 2006:<sup>11</sup>

Glasgow (BAA)	36%
Edinburgh (BAA)	35%
Aberdeen (BAA)	13%
Prestwick (not BAA)	10%
Other	<u>6%</u>
Total	100%

27. Our assessment of the effects of joint ownership of the Scottish airports will require consideration of the issues set out in paragraphs 15 and 20. The issues relating to market definition are also relevant: we have noted the OFT's suggestion that Aberdeen was in a separate market from Glasgow and Edinburgh; but BAA also

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<sup>11</sup>Source: CAA airport statistics. As noted in paragraph 8, the OFT considered Aberdeen in a separate market to airports in central Scotland.

suggested that Glasgow and Edinburgh had largely separate catchment areas, with little potential substitutability between them.

28. On the performance of the Scottish airports:
- (a) We noted above that BAA's airport charges have declined relative to RPI. We may need to consider what assurance this might provide for the future.
  - (b) We will also need to consider evidence on BAA's profitability, operating efficiency, investment and service at each airport; and whether common ownership has given rise to an inappropriate uniformity of management approach or less sensitivity to the demands of users of each airport.
  - (c) We may also wish to consider its role in development of new routes serving the three Scottish airports.

Many of the parties from whom we have heard have stressed the importance of the BAA Scottish airports to the economic development of the areas they serve. We have, to date, received few expressions of concern about their performance. Nonetheless, the argument has also been put to us that there could have been scope for competition to have benefited the performance of Edinburgh and Glasgow airports; and that the development of Aberdeen airport may also have benefited from separate ownership.

### **The South-East airports**

29. The same main categories of characteristic that potentially might have an AEC—development restrictions, capacity and other constraints on supply of airport services; regulation; and common ownership by BAA—would also apply in the South-East. However, in the South-East where BAA's main airports are designated for price control, the analysis of effects is more complex because of the interdependence between the price caps and the ownership by BAA of the three largest London airports. On the one hand, BAA's leading market position may itself have been a factor in the imposition of price caps. On the other, the effect of separate rather than common ownership may be affected by the extent of future price regulation. Any effects of regulation at Southampton, however, which is not designated, would be limited to those set out in paragraphs 19(a) to (c).

### ***Development restrictions and capacity***

30. The effect of development restrictions and capacity constraints is much more significant at the South-East airports, BAA for example arguing in its submission on our website that taken together development restrictions and capacity constraints were a feature of the market that potentially adversely affected competition.
- (a) With almost no unused slots throughout the day at Heathrow (all year) or Gatwick (summer) and few at Stansted at peak times, there is substantial excess demand for runway capacity especially at Heathrow.
  - (b) Thus development restrictions, reflecting the significant environmental issues associated with new runway development, are particularly important. The 2003 White Paper proposed new runway and associated terminal capacity at Heathrow and at Stansted, and may potentially lead to more capacity, subject to environmental requirements being satisfied and the final outcome of planning inquiries, by around 2015 at Stansted and 2020 at Heathrow (although the

introduction of mixed mode use of runways at Heathrow could increase capacity somewhat earlier). However, airlines have strongly criticized the scale and cost of the proposed development at Stansted. In its White Paper, the Government did not propose new runway development at Gatwick and the owner of Luton recently abandoned proposals to construct a longer replacement runway. There are some other existing runways in the South-East, including at BAA's Southampton airport and we will need to examine the scope for expanding the use of any of them.

- (c) Moreover, associated with site constraints, increases in runway and passenger capacity are expensive and some airports, such as Heathrow, that occupy severely constrained sites are generally thought to have the characteristic that the long run cost of increments to capacity exceeds the cost of existing capacity. If correct, this suggests that they do not necessarily have the economic characteristics of local natural monopolies.<sup>12</sup>
- (d) Market entry in the South-East is also made more difficult by the fact that the existing airports already occupy the most favourably located acceptable sites. The few remaining acceptable sites are thus likely to be disadvantaged by being remote from London.
- (e) We will, however, have to consider the arguments that BAA has been insufficiently proactive in attempting to overcome development restrictions, that it has tended to await the outcome of government policy rather than influence it, and that separate ownership could itself have acted as a greater stimulus to overcome development restrictions to the benefit of users of the individual airports.

### ***Regulation of designated London airports***

- 31. We will need to consider whether the regulation of the three London airports (which are currently designated for price control<sup>13</sup>) is a feature giving rise to an AEC, as argued by the OFT. BAA also argued that the regulatory framework was a feature that potentially prevented, restricted or distorted competition, and which should be substantially lightened or even eliminated in some cases.
- 32. An initial issue we may need to consider is the need for price control of the designated airports, at least in the current form. One possibility is that, in the absence of common ownership by BAA of all three airports, individual airports would have less market power as they would compete against each other (see paragraphs 45 to 46). We will therefore consider the extent to which competition between separately owned airports would alter the relative costs and benefits of Airports Act regulation. Our consideration of this issue will need to take into account the DfT's decision later this year on whether Stansted continues to be designated.
- 33. But we will also need to take into account that all airlines at the three London airports from whom we have heard have argued that regulation would still be necessary to prevent pricing above a competitive level, given the ineffectiveness in their view of competition even under separate ownership. Many airlines have moreover argued that regulation needs to be strengthened given their complaints about aspects of BAA's performance: eg of underinvestment at Heathrow and Gatwick, overinvestment at Stansted, excessive operating costs, inadequate service,

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<sup>12</sup>Under a local natural monopoly it is cheaper for one firm to supply the market than two and this requires that marginal costs decline as volume increases.

<sup>13</sup>The DfT is currently considering whether to dedesignate Stansted.

inadequate consultation (including inadequate information to enable consultation to be transparent and effective), lack of licence provisions or requirements to invest or ring-fence the airports, and lack of control over asset disposals.

34. We will therefore need to consider the general characteristics of the regulatory regime for the three designated London airports and how it is operated and the consequences for prices, output, levels of service and innovation.
- (a) Regulation of airport charges at the three London airports is by means of an RPI-X (or +X) approach, setting a price cap for five years and giving the company the incentive to outperform (by, for example, delivering the required service at lower cost than had been forecast in the price determination), rather than, for example, setting airport charges to ensure they cover costs and no more than a specified rate of return.
  - (b) The price cap is set so as to provide a reasonable return on the Regulatory Asset Base (RAB) comprising new and existing assets—in particular to allow new investment to earn the cost of capital necessary for such investment to be carried out—after allowing for regulatory depreciation, forecast operating costs and the income expected to be generated from other activities.
  - (c) Among the general criticisms of such a regime is that it provides an incentive at each regulatory review to make the projected capital expenditure and operating expenditure as large as possible, and to understate the scope for efficiency savings, traffic growth and growth of other revenues, and subsequently to outperform (although on the figures we have seen BAA has underperformed at each of the three airports in the first three or four years of the current regulatory period). But since any efficiencies achieved during a five year period are taken into account in the next review, the airport only obtains the benefits of any improvements in efficiency in either capital or operating expenditure for the remainder of the regulatory period, hence the incentives to improve efficiency may also be weakened in the longer term. There is also a lack of incentive to reflect and respond to customer requirements.
  - (d) There are significant differences in the legal framework of airport regulation compared with that of other utilities, including the duties of the regulator. The CAA is, for example, required to impose the minimum restrictions consistent with the performance of its functions, and there is no requirement for the operators of designated airports to be licensed (other than to meet safety requirements). Designated airports are not therefore subject to the provisions contained in the licences of other utilities, including the requirement to ensure the regulated business has sufficient financial and operational resources to carry on its regulated activities or for the regulator to appoint a special administrator if a regulated company is in breach of its license.
  - (e) Possibly in consequence, there have been criticisms of the 'light touch' nature of the regime with, airlines have argued, considerably less involvement of the CAA as the regulator in comparison with other regulatory regimes such as water, gas, electricity and rail. There are, for example, no annual reviews by the regulator of capital expenditure, operating expenditure, or service provision, nor is the regulator's consent required for matters such as asset disposals.
  - (f) We may need to consider whether the absence of some of the characteristics of the regulatory regime of other utilities may itself be a feature giving rise to an AEC.

We set out in paragraphs 35 and 38-42 some of the more detailed arguments we have received about the resulting adverse effects on investment, pricing and service quality.

### *Regulation, investment and innovation*

35. The effect of price cap regulation on investment incentives is one of the features discussed in the OFT report. In so far as the current regulation of designated airports under the Airports Act inappropriately differs from other regulatory regimes, it may lead to adverse effects on competition between airlines and/or airports. In this context a number of issues have been raised:
- (a) Price caps set on the basis of allowing a given return on a RAB provide no strong incentive for efficient and effective investment as, in the longer term, the airport operator earns the cost of capital on all its investments regardless of how necessary they are, and the greater its investment, the greater its overall returns.<sup>14</sup>
  - (b) As a consequence, decisions on investment projects are made on administrative, rather than market generated, grounds, with criticisms of the resulting level, quality and location of investment.
  - (c) We note that in the last few years the CAA has sought to involve airlines more in investment and other decisions through the process of constructive engagement. Although constructive engagement was generally regarded as a significant improvement on previous consultation processes, we received many criticisms of it as an appropriate mechanism, including the asymmetry of resources between airlines and the BAA in engaging in such processes, reluctance by BAA to provide the necessary information for such a process or delays in doing so, inadequate consultation in the early stages of considering projects, the absence of an arbitration mechanism, and the failure of constructive engagement to develop at all at Stansted.
  - (d) Particular concern was expressed about 'gold plating' of investments, that is the development of over-elaborate projects to increase the RAB (an incentive for gold-plating arises when the company's allowed rate of return on the RAB exceeds its actual cost of capital).
  - (e) Concern was also raised about 'prefunding' of investment, that is the inclusion in the RAB of investment at the time the money is spent (including expenditure before construction starts, on internal planning and preparation, use of consultants, and external consultation and planning inquiries) rather than when it becomes operational (an issue we are also considering in the quinquennial review).
  - (f) For similar reasons, price control may dull the incentive for BAA to innovate as well as rapidly take up new technology developed by others.
  - (g) On the other hand, we may need to consider the appropriateness of the five-year time period for the setting of airport charges given the much longer-term nature of airport investment projects.

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<sup>14</sup>In the short term (during each regulatory period) the company may earn a return above (below) the cost of capital if it delivers the investment for less (more) than assumed when the price cap was set.

We may also wish to have regard to BAA's actual investment performance, which has been criticized by airlines, in considering any adverse effects both of regulation and of BAA's common ownership of the three designated London airports (see paragraph 48). We may also wish to consider its record in innovation compared with that of other European airport operators.

### *Regulation, prices and service quality*

36. As regards price levels, one argument is that price caps, being based on accounting costs (reflecting international conventions on airport pricing), result in airport charges being capped below competitive levels. This raises the issue of how to define a competitive level for airport charges at capacity-constrained airports, where there is excess demand for slots. One possibility is to define the competitive price as the lowest price which clears the market at current capacity: this might be appropriate in the short run or as long as capacity is determined outside the market (for example by the Government or the planning system, reflecting environmental constraints) but would not be appropriate if capacity is itself affected by market features, that adversely affect competition, such as regulation, market power or BAA's common ownership of several airports. An alternative possibility is to define the competitive price level as the long run incremental cost of adding the capacity required to meet demand.
37. Under-pricing of airport charges at capacity constrained airports might adversely affect competition in a number of ways:
- (a) By discouraging the transfer of slots to those airlines that can make most effective use of the slots (although this may be ameliorated to the extent that airlines are able to trade slots on a 'grey market').
  - (b) By discouraging additions to capacity at non-designated airports or at the least attractive designated airport, for example Stansted (because airlines prefer to seek slots at the most under-priced airport and are reluctant to pay higher charges at other airports to finance additions to capacity).
  - (c) To the extent that lower airport charges are reflected in airline yields, by increasing demand at the most under-priced airport(s) and reducing it at other airports, consequently increasing congestion at the most under-priced airport(s) and reducing the incentive to invest at other airports.
  - (d) To the extent that lower airport charges are not reflected in airline yields, by increasing profits of airlines operating at the most under-priced airport(s) to the detriment of airlines operating from other airports.

We intend to consider evidence relevant to an assessment of this issue, including slot valuations. We might also need to consider the implications of any move of prices towards competitive levels, including the implications for airlines and possible legal problems (including possible breach of international agreements<sup>15</sup>) associated with increasing airport charges above accounting cost.

38. An alternative argument is that the current regulatory system leads to airport charges being above some ideal level of prices, thereby distorting competition between airlines. As noted in paragraphs 33 and 34, airlines argue that the current system is weak compared with those in other regulated sectors, leading in the past to over-

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<sup>15</sup>The most important existing agreement is that between UK and USA, which is to be replaced by the EU-US Opens Skies agreement. Additionally, ICAO policies on charging refer to charges being cost-related.

generous settlements for BAA and that the CAA is still too reluctant to reach its own judgements over those of BAA.

39. A number of airlines also expressed concern to us about the high levels of gearing of the BAA airports following the acquisition by ADI, putting its operational activities at risk including the level of investment and standards of service, and about the inadequacy of airport regulation under the Airports Act to provide sufficient protection from such risks (an issue we are also considering in the quinquennial review). There were also concerns about the disposal of assets that could be required for operational purposes.
40. The CAA has no ability to 'ring fence' the designated airports from default by associated companies, nor is the CAA able to ensure the debt of the designated airports retains investment grade status. By contrast, in other sectors (including air traffic control, electricity, gas, rail and water) where regulated companies operate under a licence, regulators have been able to agree licence conditions for ring fencing of the regulated business.
41. A further difference between airports regulation and regulation of other companies is that, for airports, the CAA is required to refer the designated airports to ourselves and we then recommend a level of price cap to the CAA. Unlike other utilities, the only mechanism for appeal of the regulator's decision is to the High Court rather than to a specialist body such as ourselves or the Competition Appeal Tribunal. An issue here therefore is whether airports regulation should be changed to be more in line with regulation of other utilities where the CAA makes its decision without a reference to the CC and where the CC acts as an appeal body and, if so, who should be allowed to appeal.
42. Other issues associated with price and quality of service include:
  - (a) Price control under the Airports Act reduces efficiency incentives since part of the cost of inefficiency is borne by customers (price caps, as noted in paragraph 34, are reviewed every five years on the basis of airports' actual costs and there is less scope for the regulator to challenge costs by making comparisons with more efficient companies than in the cases of water or electricity distribution).
  - (b) Price control under the Airports Act does not sufficiently incentivize improvement in the quality of service (although following a public interest finding in our 2002 report, there is now a quality of service regime under which BAA pay airlines fixed amounts for failing to achieve quality of service targets). The OFT document accompanying the market reference quoted figures showing both Heathrow and Gatwick ranked very poorly in passenger perception of quality of service compared with other airports; there have also been widespread public criticisms of service levels, particularly the length of security queues following the introduction of additional security requirements in the last two years, and we have also received a number of complaints from users about poor quality of service and facilities.
43. As regards the structure of tariffs, which potentially affects competition between airlines, the existing 'revenue yield' formula could be regarded as giving BAA a strong incentive to maximize the number of passengers for the duration of a specific formula since increases in passenger numbers tend to increase revenue, including commercial income, much more than costs (see paragraph 47(a)). In principle, this might give BAA the incentive to reduce the passenger charge and increase other charges compared with efficient levels. But we have not seen evidence that this has occurred. One airline pointed out that Heathrow's airport charges per passenger

decreased with aircraft size as Heathrow had a fixed landing charge per ATM, whereas larger heavier aircraft would tend to cause higher maintenance costs for the airport. However, the overall balance between landing and passenger charges may be as or more relevant to efficient pricing: excess demand for slots throughout the day may suggest Heathrow's landing charge is too low.

### **Common ownership of airports by BAA**

44. CAA figures show the following shares of airport passengers in the South-East and East Anglia<sup>16</sup> in 2006:

Heathrow (BAA)	48%
Gatwick (BAA)	24%
Stansted (BAA)	17%
Luton (not BAA)	7%
London City (not BAA)	2%
Southampton (BAA)	1%
Other	<u>1%</u>
Total	100%

45. An initial issue is whether, and to what extent, BAA's common ownership of three London airports and Southampton increases its market power at each airport compared with an alternative situation where all airports or a combination of airports are under separate ownership. Analysis of this issue would need to reflect the potential both for:

- (a) short term price competition (given existing capacity); and
- (b) longer-term competition through separately owned airports having greater incentive to expand and/or improve their existing capacity to meet demands of their users in order to attract traffic from other airports or retain existing traffic. As noted in paragraph 30, this may include separate ownership providing a greater stimulus to overcome development restrictions to the benefit of users of the individual airports.

46. The analysis would also need to take into account factors of the type mentioned in paragraphs 15 and 20 including any other factors that may limit the ability or willingness of separately owned airports to compete, such as:

- (a) lack of spare capacity. One of the airlines from whom we heard, for example, argued that competition between airports is only likely if there is spare capacity, hence the scope for competition in the London area could be different to other parts of the UK. However, this lack of capacity could be due, in part, to airport charges at some airports (eg Heathrow) being too low. BAA argued that that the lack of spare capacity meant there was currently no real scope for competition between BAA airports in the South-East;
- (b) slot allocation rules as applied to capacity-constrained airports; or
- (c) restrictions in bilateral agreements, though these will following Open Skies apply to only a limited number of the most heavily used routes. (They will still, however, apply to many routes to Africa, Asia and South America);

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<sup>16</sup>Source: CAA airport statistics. The percentages show passengers at each airport as a percentage of passengers at all airports in the London, South-East and East regions (Government Office regions).

- (d) whether competition between separately owned airports could be reduced by unilateral or coordinated effects;
- (e) evidence on performance of the airports; and
- (f) the performance in particular of Southampton which has not been subject to regulation, and arguments that its development could have benefited had it been owned separately from the main other airports in the South of England.

### *Common ownership with continued regulation*

47. Given that regulation at least of Heathrow and Gatwick will continue for the next five years, we will also need to consider the impact of separate rather than common ownership under continued regulation. As regards conventional competition on price and quality of service, the incentives arising from separate rather than common ownership may affect decisions in various ways:
- (a) The working of the revenue yield formula, airports' commercial income and cost structure may mean that the regulated airports have a short-term incentive to increase the number of passengers. However, the benefit of additional passengers disappears at the next five-year review, since projected revenue is reduced to the level that earns the cost of capital—in the longer run, increased passenger numbers result in lower prices rather than higher profits. Furthermore, the ability of the price-capped airports to increase passenger numbers is limited by capacity constraints. Nevertheless, to the extent capacity is not fully used (eg at some winter off peak times at Gatwick) and/or different types of traffic may generate different margins, separate ownership might give operators an incentive to offer discounts to compete with other airports. However, longer-term competition (see below) may offer more scope for benefits than competition in the short term.
  - (b) In regard to competition between BAA's designated and non-designated airports (Southampton and possibly Stansted), a separate owner of a non-designated airport would have greater incentive to reduce price to attract additional traffic from competing designated airports. However, it might be argued that, to the extent there is excess demand at the designated airports, BAA as a common owner to some extent already has this incentive (since it can readily replace traffic at its designated airports which is lost to its non-designated airports). Again this may be due to charges at Heathrow being too low.
48. As regards longer-term competition to expand and improve capacity, the incentives under separate rather than common ownership are also likely to be affected by continued regulation:
- (a) Under a RAB-based price cap, incentives to invest depend principally on the cost of capital and the investment projects the regulator includes in the RAB (see paragraph 35). Separate ownership may not, however, necessarily affect these incentives except to the extent that effective price control is thought likely to be time limited.
  - (b) At non price-designated airports (Southampton and possibly Stansted), a separate owner would potentially have an incentive to invest to attract traffic from the price-capped airports. Again, however, it might be argued that capacity constraints at the designated airports mean that BAA already has this incentive. On the other hand, it is possible that the profitability of operating routes from Heathrow is so much higher than the profitability of the equivalent routes from

other airports that it would be difficult for another operator to attract an airline away from Heathrow.

49. We will also need to consider whether common rather than separate ownership reduces the benefits of regulation and therefore affects competition between airlines. Potentially relevant issues include:

- (a) Whether common ownership may lead to inappropriate uniformity of management approach and less sensitivity to the demands of the users of the different South East airports; whereas separate ownership could bring benefits from a diversity of approaches, including greater appreciation of the customer base at each airport, different approaches to issues of capital expenditure and quality of service, or different approaches to issues relating to operating expenditure, including use of manpower.
- (b) Whether the common ownership of the four airports leads to incorrect levels and timing of investment. In particular, the argument was put to us that BAA has a preference for expanding capacity at Stansted over Heathrow and has failed to make adequate progress on Heathrow's third runway; and that BAA proposes the wrong sort of investment at Stansted, to meet the requirements from growth in demand across the system as a whole rather than from the users of the airport.
- (c) Whether common ownership may lead to an inappropriate type of investment, for example a reluctance to develop a variety of terminals at airports, or to recognize the different requirements of different carriers, in particular (as noted in paragraph 11) the requirements of low-cost carriers and the importance of airport charges to their ability to compete, airlines at Stansted being very critical of BAA's development plans.
- (d) Whether common ownership of similar price-capped airports may reduce the quantity or quality of information available to the regulator and consequently reduce the quality of regulation by limiting the ability of the regulator to make cost and quality comparisons between different operators.
- (e) Whether common ownership could also remove competition to access capital markets.

In this context, we may have regard to BAA's operational performance, investment and innovation, and airlines' criticisms of BAA. We would also, however, have to consider to what extent any shortcomings of BAA are attributable to its common ownership of several airports or to regulation (see paragraph 34) or indeed other reasons.

#### *Competing terminals within each airport*

50. In principle, the different terminals within an airport could be separately owned and/or operated and could compete with each other. The issues here concern the operational and economic feasibility of terminal competition:

- (a) Operationally, it might be argued the natural business unit is the airport rather than the terminals: competing terminals might give rise to coordination difficulties and additional costs. There might, however, be scope for an airport operator to franchise the operation of one or more terminals under a contract that provided for sufficient central coordination. Furthermore, it is not necessarily easy for

airlines to move between terminals at airports such as Heathrow and Gatwick (some are much better suited to one than another terminal).

- (b) As regards economic issues we may need to consider:
  - (i) whether the existence of separately owned or operated terminals would reduce any perceived need for price caps at the slot constrained airports. If airlines find it difficult to move between terminals (eg because there is little surplus terminal capacity or available land on which to construct new terminals), each separately owned terminal may have substantial ability to raise prices.
  - (ii) whether, under price cap regulation, BAA could be regarded as already incentivized to contract out terminal operation to a more efficient operator since BAA itself would earn any savings during the five-year regulatory period (in practice this might be doubtful as the preparation and tendering might well take up much of the five years).
  - (iii) Whether, however, separately owned terminals might provide regulators with additional useful information.
- (c) Similarly, it has been suggested that airports could have runways under separate ownership. Similar issues would arise as with terminals. Of BAA's airports, only Heathrow currently has two runways, but these currently operate in segregated mode (one for take-off and one for landing) which would make competition impossible, although mixed mode is an option.

### **Other characteristics**

- 51. We may also need to consider a number of other characteristics (including conduct by BAA and other factors) relating to one or more BAA airports which have been suggested as having adverse effects on competition between airports, airlines or in other markets such as taxis or car hire. Some of these have been raised as public interest issues in the quinquennial review. We will need to consider these in relation to BAA's market power in the airport market(s).
- 52. Possible features relating to competition between airports or airlines are:
  - (a) DfT's Traffic Distribution Rules. These prevent new freight-only ATMs at Heathrow and Gatwick. One airline argued that this distorted the air transport (cargo) market. Although this cannot be regarded as conduct of BAA, it could still be regarded as a feature affecting competition between airports if it restricts the ability of airlines to switch between airports. Concerns were also expressed about the exclusion of business aviation from Heathrow and Gatwick.
  - (b) Other features affecting competition between airports such as the slot regime and aviation agreements. Although these can also not be regarded as conduct of BAA or directly affecting the airport market, they could still be regarded as features affecting competition between airports if they restrict the ability of airlines to switch between airports.
  - (c) Ferrovial's control of a groundhandler (Swissport) which operates at Gatwick and Stansted. Possible adverse effects on the airline market could arise from shifting cost from Swissport to BAA's regulated cost base or to giving Swissport preferential terms compared with other groundhandlers. This was considered by the European Commission at the time BAA was taken over: the Commission

concluded there was not a problem in part because airport conduct was regulated by the groundhandling directive and entry/exit of groundhandlers was relatively easy. (Similar issues may arise from other Ferrovial interests, eg in construction and car parking.)

- (d) BAA's conduct in regards to its tariff structure. BAA's tariffs do not vary with the quality of service provided (apart from at Glasgow where there is a 25 per cent discount for using the East Pier and at Gatwick and Heathrow as part of the service quality regime). We have received complaints about BAA charging the same tariffs at Gatwick's two terminals despite the allegedly lower quality, look and feel of the South Terminal and also about BAA's uniform tariffs at Heathrow's terminals despite the expected higher quality of Terminal 5.
  - (e) BAA's disposals of assets without consultation, which could be required for future operational use by airlines.
  - (f) Attempts by BAA to monopolize IT services at Heathrow, requiring airlines in some terminals to use BAA's IT services (such as CCTV and WIFI networks in Terminal 5) at charges in excess of market rates.
  - (g) Concern about the continued ability of air services from regional airports to access the London airports, particularly Heathrow, but it is unclear to us that the allocation of capacity for such services would be affected by any of the matters we have to consider.
53. We may also need to consider a number of issues raised with us relating to BAA's practices (in some cases enforced by use of its powers as a highway authority) toward the provision of services at one or more individual airports which could have adverse effects on competition in other markets including airport car parking, bus/coaches, taxis, car hire and property development.
- (a) Car parking competition issues: these concern charges for picking-up and setting down passengers being driven to and from independent off-airport car parks; the location of the stops required to be used; the prohibition on the use of the airport name; and the use of the BAA website to refer only to their own services and not those of competitors. The concerns relate to some non-BAA airports as well as to BAA airports.
  - (b) Issues concerning BAA's facilities and charges for minibus, bus and coach operators to use the airport, including restrictions on the operation of competing bus services to some of the airports.
  - (c) Heathrow taxi issues: complaints included the constitution of Heathrow Airport Licensed Taxis Limited (HALT) and its contract with BAA; a 20p levy on taxis using Heathrow for use of the Journeypay credit card payment system; and the cost of using Heathrow.
  - (d) Car hire arrangement issues: complaints concern BAA's 'consolidation' of car hire activities and the charges for use of airport facilities at BAA airports.
  - (e) Other aspects of the supply of retail or other services for passengers at the BAA airports. At the designated airports, income from such services is used (under the 'single till' approach) to reduce the level of airport charges, an approach which BAA has argued should be reconsidered in the current inquiry; but although there is no such requirement at the non-regulated airports, competition from other airports may have the same effect. We have also received a

complaint that BAA is not prepared to discuss stocking some alcoholic drinks in WDF outlets.

- (f) BAA's use of its compulsory purchase order powers to acquire land not required for operational use, but for developments which could be undertaken by other companies (including office developments and long-term car parking), and some of which could as a result be subsequently sold at a significant profit.

## **Next steps**

- 54. Over the next few months we will continue to collect relevant information from airports, airlines and other sources, and consider responses to this issues statement. Thereafter, in the early part of 2008, we expect to publish for consultation a document setting out our 'emerging thinking' on all the key issues. We may then hold further hearings before publishing our provisional findings around this time next year. If we were to provisionally find that features of the relevant market had adverse effects on competition, we would be obliged to consider appropriate remedies, which may be structural or behavioural. In doing so, we would take into account any customer benefits of the market features, which affect whether remedies are needed.
- 55. Possible customer benefits from regulation include lower airport charges. Possible customer benefits from common ownership include benefits to airport development, and any cost savings from operating more than one airport in a particular area (to the extent passed on to customers).