

**SUBMISSION TO THE COMPETITION COMMISSION CONCERNING ITS
MARKET INVESTIGATION OF THE SUPPLY OF AIRPORT SERVICES BY BAA**

Date: 4 May 2007
To: The Competition Commission
From: Three companies active in the provision of car rental services [confidential]

Introduction

In response to the Competition Commission's invitation of comments/submissions by interested parties in the context of its investigation of the supply of airport services by BAA within the United Kingdom, the companies [confidential] hereby make the following joint submission on the basis of their experience in dealing with BAA in UK airports owned by them.

The submission aims at bringing to the attention of the Competition Commission a very serious problem that operators of short-term car rental services (car rental operators, "CROs") face in some airports that is the CROs' continuous exploitation by airports, which abuse their dominant position and charge excessive prices to the CROs operating within these airports. They do so by imposing upon the CROs non-transparent tender procedures with no relevance to the costs incurred by them and no obligation or incentive on them to be more efficient. This is a broader issue but it is also relevant to the current market investigation, because of the prices charged at London Heathrow Airport.

The CROs and their captive status in the airports

the companies [confidential] are multi-national short-term car rental companies with a presence in most large, medium and small airports in the United Kingdom. These companies provide car rental services to customers on an international basis. Most of their customers are in the habit of booking a rental car for pick-up at an airport, often in another country, a few days before it is required. These customers generally want to pick up their rented car at the airport where they land. They have come to expect this standard of immediate service and airport presence, and customers of this type form a substantial portion of the CROs' customer base.

We note that the OFT's Terms of Reference to the Competition Commission include car rental in the definition of "associated commercial services" offered by BAA airports. Thus car rental services fall within the scope of this investigation; a differentiating factor is, however, that car rental services are directly linked to the main use of the airport by passengers. In that sense, their services are unique and distinguish CROs from any other consumer-oriented shops or service providers.

Airport-based ground services to CROs are among the core services offered by airports to economic operators other than airlines. CROs are dependent on a number of facilities for their presence in the airports. Apart from the visible front rental desks which are usually situated in airport lobbies, airports rent a number of other facilities to CROs. They include office space, car parks, back-up areas, facilities for refuelling and washing, as well as bussing services at some airports.

All these services are indispensable to the CROs' presence in the airport. The CROs have no choice but to be located at each airport in order to meet their customers' needs. Neighbouring airports are usually some distance away and cannot be considered to be part of

the same geographical market, because customers arriving at one airport do not and cannot be expected to travel a significant distance to another airport to take advantage of car rental services. Then, from the point of view of the CROs' customers, it is usually not acceptable for the CROs to have their rental facilities located outside the airport's boundaries. For the same reason, CROs cannot serve their customers by relying on already existing facilities and customer points located away from the airports, for example in nearby cities. Renting a car in an airport is attractive and beneficial for customers precisely because it offers them the convenience of taking possession of and returning that car to the airport where they land and from which they depart. CROs therefore have no alternative but to use the facilities of airports; anything else is simply not acceptable from a customer point of view.

Each airport is in a dominant position in the local geographic market for the provision of airport-based services to CROs. It is in fact a monopolist, in the market for the provision of services connected with access by short-term CROs to the installations in that particular airport. These services are basically the use of office space and car rental desks, parking, valeting, car-wash and fuelling facilities, and other related services. They are supplied by the airport, which charges a fee for them. The CROs also note BAA's predominance as the owner of most major UK airports. As the OFT's Report of December 2006 states, BAA owns airports through which over 60% of UK air passengers travelled in 2005.

Airports' Excessive Pricing

Currently most airport operators award concessions to CROs through tenders. CROs are charged a percentage of their airport-based revenue which increases each time the concession agreement is renewed. In most cases the increase imposed on the CROs is extremely high and bears no relationship whatsoever to the service they get from the airports nor to the airports' costs in providing that service. Tender terms are so stated as to require acceptance rather than negotiation. There is no transparency as to the airports' costs nor is there any obligation or incentive on them to be more efficient. This aspect has a particular significance when compared to the obligations under European legislation that airports face already or will face in the future in their relationships with airlines.

Airport operators are clearly monopolists and CROs have no choice but to be in their airports. As monopolists, they enjoy – to a great extent - unregulated freedom and do not feel the constraint to be more efficient or transparent, for example through some form of pricing formula. The result is inexorably rising rental car costs - passed on to customers, who therefore are the ultimate victims of the airport operators' unchecked behaviour. The risk is that consumers will end up not renting cars at all from the airport because of cost (and thereby face reduced choices for their transportation and/or holidays) or that they will have to go through the inconvenience of renting their cars off-site.

A UK example

The CROs refer indicatively to a recent case of what they consider as “excessive pricing”. This case has now been settled with the airport concerned but offers a good illustration of this problem. The airport had put out a new tender for car hire operators at the end of 2004. The financial terms of the tender were very prejudicial to all CROs. They also represented a major increase compared with the previous contract. The method for the calculation of the concessionable income had also been changed and many expenses that were previously included in the concession fee had been made independent and payable over and above the concession fee itself. The overall fees and payments increase between the old and the new

contract was impressive, but more illustrative was the comparative position of that airport among other comparable UK airports, which showed the former to be by far the most expensive UK airport for CROs.

It was not easy to compare the new financial terms with equivalent figures in other comparable airports because of the distinctive features of the specific contract. Because of the differences in the calculation of concessionable income among the UK airports and because of that airport’s exceptional concession fee structure, the CROs had no other option but to make an estimate based on two standard comparators: (a) the absolute numbers of the total all-inclusive payments to airports, and (b) each CRO’s total (performance) turnover excluding fuel. From these figures, it was clear that the increase of the all-inclusive fees as between 2004 and 2005 at the airport was wholly disproportionate. In absolute numbers, this was on an average more than a 100% increase.

Even if one did not concentrate on the increase as such, the all-inclusive payments to the specific airport by each CRO were again demonstrably disproportionate, if one compared them with payments to other comparable airports. The difference was not one of 1-2 percentage points. On average, there was a difference in 2005 of 6.46 percentage points above the other airports’ average. These calculations left no doubt as to the excessive pricing system that that airport has adopted. The facilities there were not unique. They had undergone refurbishments, as have other airports, but there was nothing either absolutely or relatively superior about them, to justify a huge price gap with comparable airports.

The table below shows firstly in absolute numbers the total all-inclusive payments by the CROs to that specific airport and other comparable airports and the percentage these figures represent to the all-inclusive turnover of the CROs in those airports.

[confidential figures]

Airports	CRO 1		CRO 2		CRO 3	
	2004	2005	2004	2005	2004	2005
“Excessive pricing” Airport						
Aberdeen						
Belfast Intl						
Birmingham						
Bristol						

East Midlands						
Edinburgh						
Liverpool						
Luton						
Manchester						
Stansted						

This example illustrates how airports can impose excessive prices on CROs without any economic justification. The matter is now settled.

The above facts took considerable time to establish. The CROs had to share various data with their outside counsel, which acted as an independent assessor and ensured the confidentiality of the whole process, since these are figures which are very sensitive and cannot be exchanged among the CROs. Common denominators had to be agreed upon to ensure comparability. The whole exercise lasted more than a year and it is only towards the end of that period, when the CROs had made certain representations to the OFT, that the airport concerned showed willingness to settle.

The situation at Heathrow

A similar exploitative conduct vis-à-vis the CROs can be observed at London Heathrow Airport. At the current stage of the present market investigation, the CROs have not yet had the time to proceed to an exhaustive comparative analysis, like the one undertaken above, which would require considerable time, efforts and costs. The CROs have however tried to put together under the direction of their outside counsel an indicative non-conclusive comparative table showing that there is certainly a problem of excessive pricing at Heathrow Airport.

The table analyses the current and the previous concession periods at Heathrow and lists two numbers, one number being the total all-inclusive payments to each CRO's turnover as an average for the previous concession period and the other number being again the total all-inclusive payments to turnover as an average for the current concession period. The table refers to Heathrow and Gatwick in the UK and to some other comparable European airports.

BAA UK Airports						
	CRO 1		CRO 2		CRO 3	
	Previous Concession	Current Concession	Previous Concession	Current Concession	Previous Concession	Current Concession
Heathrow						
Gatwick						
Other Comparable European Airports						
Roma Fiumicino						
Madrid Barajas						
Frankfurt						
Paris CDG						
Nice						

It is the view of the CROs that there are significant indications that BAA is charging excessive prices at Heathrow Airport, thus exploiting the CROs' captive status and its dominance in the specific market. In addition, when compared to other proximate property costs and the CROs' downtown costs, BAA's charges per square foot are disproportionately higher. The CROs remain at the Competition Commission's disposal to respond in detail to any queries the Competition Commission may have in this regard.

Conclusion

The above analysis of the position of CROs vis-à-vis BAA shows the captive market status of CROs, and how the actual or possible behaviour of BAA harms or may harm competition. the companies [confidential] urge the Competition Commission to draw the appropriate conclusions therefrom.

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