



News Release

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BAA MARKET INVESTIGATION

Provisional decisions on sale of three airports and other remedies to competition problems

The Competition Commission (CC) has confirmed that, subject to final consultation, it will require BAA to sell both Gatwick and Stansted airports as well as Edinburgh airport. It also proposes to introduce measures to ensure that investment and levels of service at Heathrow, and possibly Gatwick and Stansted, meet more effectively the needs of airlines, passengers and other airport users. At Aberdeen airport, it is proposing measures to promote investment linked to rebates on charges.

The CC also intends to make recommendations to the Government on a more effective, and ultimately more flexible, system of airport regulation and also on aspects of government airports policy.

The CC will now consider responses to its provisional decision document published today at www.competition-commission.org.uk. It expects to publish its final report on BAA's seven UK airports, and the appropriate remedies, in late February or early March 2009.

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

Having provisionally identified competition problems at each of BAA's seven airports, we are proposing remedies which address them directly and comprehensively through a combination of divestment and other measures to improve investment and levels of service. The most effective way to introduce competition in the South-East and in lowland Scotland is to require the three London airports and the two principal Scottish airports to be separately owned. Hence we are proposing the sale of Gatwick, Stansted and Edinburgh airports to new independent owners with the operating capabilities and financial resources to develop each of them as effective competitors. Under the common ownership of BAA, there is no competition. Under separate ownership, the airport operators, including BAA, will have a much greater incentive to be far more responsive to their customers, both airlines and passengers.

We recognize that current capacity constraints in the South-East will limit the pace of development of competition. Even in the short term, however, we expect benefits from different approaches to airport management as well as greater initiative in longer-term planning and development of new investment which will be critical to sustained effective competition.

We will also be making recommendations to the Government on a more effective, and ultimately more flexible, system of airport regulation as part of the Department for Transport's current review. However, we recognize that any significant changes to the current system of regulation will take time and will require legislation. We therefore propose to introduce more immediate measures, as soon as possible after we publish our final report early next year, to ensure that at Heathrow, and possibly at Gatwick and Stansted, there is continued and improved focus on the needs of airlines and passengers in terms of investment and the level and quality of service.

The main points in the provisional decision document are as follows:

- The CC will require the sale of both Gatwick (although BAA has already started the sales process) and Stansted airports to different purchasers, as well as Edinburgh airport, although the CC remains open to further views on the alternative of selling Glasgow airport. A monitoring trustee will oversee the sales process.
- Views are sought on the timing of the Stansted sale, given the forthcoming planning inquiry on a second runway.
- Measures to provide rebates on charges at Aberdeen airport linked with investment incentives and improved consultation with airlines on capital expenditure.
- Ahead of any longer-term changes to airport regulation, proposals to strengthen the consultation process between BAA and airlines, as well as for additional provisions on quality of service and non-discrimination at Heathrow (and possibly Gatwick and Stansted).

In relation to airport regulation, recommendations to the Department for Transport (DfT) that:

- The Government should adopt a licence-based regime of economic regulation for airport owners, to give the regulator more ability to intervene flexibly when necessary on issues such as performance and adequate financing. The licence should impose a set of duties on the operator of Heathrow and give the regulator adequate information-gathering powers.
- The regulator's primary objective should include a duty to promote effective competition between airports and to assess the interests of consumers, whilst having due regard to the view of airlines.
- The regulator should be under a duty not to set price caps nor impose related licence obligations, nor retain them, unless there is risk of the airport operator being able to set charges at an excessively high level.
- Legislation should be amended to allow for terminals to be developed or redeveloped and operated separately from runway facilities.
- The CC's role should be changed to that of an appeal body, with the right of appeal extended to airlines.

In relation to airports policy, recommendations to the DfT that:

- The DfT should, in the context of the development of the forthcoming aviation NPS (National Policy Statement), consider the impact of the White Paper on the aviation market in the South-East in the light of the divestment of Gatwick. It should ensure that the aviation NPS 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 CC would like to hear views on the provisional decision on remedies in writing, by 9 January 2009. To submit evidence, please email airports@cc.gsi.gov.uk or write to:

The Inquiry Manager (Airports market investigation)
Competition Commission
Victoria House
Southampton Row
LONDON
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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 also published a list of proposed remedies, which included ordering BAA to sell two of its three London airports, as well as either Edinburgh or Glasgow airport, and also stated that it would look to make recommendations on how the current system of regulation could be improved and on the effect of Government policy. Following discussions with all interested parties including BAA, the airlines, the Civil Aviation Authority (CAA) and the DfT, the CC has now published its decision on which measures it proposes to enforce or recommend.
5. The CC recently carried out a statutory review of the CAA's proposed price controls for Stansted Airport, which will govern how much the airport's owner, BAA, can charge airlines during the five-year period beginning April 2009. The CAA subsequently published its final proposals on 9 December 2008.
6. 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.
7. 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 (Ferrovial) 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.

8. 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.
9. Enquiries should be directed to Rory Taylor on 020 7271 0242 or rory.taylor@cc.gsi.gov.uk.