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17 September 2008

The Inquiry Manager (BAA Airports)  
Competition Commission  
Victoria House  
Southampton Row  
London WC1B 4AD

Dear Sirs

### **Market Investigation of BAA: Addendum to our submission of 16 September 2008**

This addendum to our submission of yesterday's date is in response to a public comment made today by BAA Chief Executive, Colin Matthews, which we regard as an attempt to mislead the Commission – and others – into believing that a forced sale of Stansted would delay expansion plans for the airport. The comment was made in BAA's press release announcing that Gatwick Airport is to be sold, where Mr Matthews states:

*"At Stansted, we believe that a change of ownership would interfere with the process of securing planning approval for a second runway, which remains a key feature of Government air transport policy."*

This is clearly an attempt to persuade the Commission not to force a sale of Stansted. However, we note that your Provisional Findings report did not specify the sale of Stansted (or Gatwick) airports but rather the sale of "two of BAA's three London airports". We expect this form of words was carefully chosen, inter alia, to provide flexibility in the event of difficulties arising in selling any particular airport. It should be noted that the planning argument advanced by Mr Matthews in relation to Stansted does not apply to Heathrow, where there is not a planning application outstanding and any such application is, at best, some years away.

Moreover, the planning argument used by Mr Matthews does not stand up to scrutiny even in the case of Stansted. The reasons for this are set out below:

1. A change in ownership has no bearing, in planning law, upon the status of a planning application. However, in the event of an impending sale of Stansted, we recognise that BAA may decide not to proceed with the second runway ('G2') application (for the benefit of a competitor). If that were to be the case, we would expect the Commission to invoke its powers to appoint a divestiture trustee at the outset. That would enable the G2 Public Inquiry to proceed. In this context it is relevant to note that BAA has largely contracted out the handling of the G2 application to a team of third party consultants and legal advisors and so we do not believe that a handover would be unduly difficult.
2. Regardless of who owns Stansted, securing planning approval for a second runway will be a major challenge. We need not go into the detailed reasons for this but the Commission will be aware of the contentious nature of the proposal, the scale and range of opposition and the fact that at previous planning inquiries over the years a second Stansted runway has always been

*Patron: Terry Waite CBE*

*Stop Stansted Expansion is a working group of the North West Essex and East Herts Preservation Association*

judged unacceptable on environmental grounds. BAA has not helped its prospects by submitting a planning application which is well below the standard normally expected of the company. Indeed, it appears as if BAA, having worked on the application at a leisurely pace for some years, decided about 12 months ago that there was an urgent need for it to be submitted. Whatever the reasons, the G2 application has all the hallmarks of a rush job, including some serious errors and omissions and this will reduce the efficiency of the Public Inquiry.

3. The G2 Public Inquiry is scheduled to commence on 15 April 2009 and is expected to last for 12-18 months. The Inspector's report would normally be expected about 9-12 months after the Inquiry ends and the Secretary of State is then likely to take a similar period of time to review the Inspector's report and make a decision. Thus a decision on the G2 application could be expected towards the end of 2011 at the earliest and is more likely to be mid-2012. Importantly, even if a new owner of Stansted wished to withdraw the G2 application and develop his own proposals, this would not necessarily delay a final decision. Following the enactment of the Planning Bill, new procedures will be in place within two years to deal with planning consent for major infrastructure projects. Decisions will be taken by a new Infrastructure Planning Commission which will replace the Public Inquiry system. The new arrangements are expected to result in final decisions being taken on major infrastructure projects within a year from submission of the planning application. Thus, even if a new owner took two years to prepare a revised proposal, a final decision could still be expected by mid-2012.

4. There is in any event no urgency for a second Stansted runway. The airport will handle about 22.4m passengers this year (6% down on last year) and is capable of handling well over twice that throughput without a second runway (although that is not to say that we would consider such a prospect to be acceptable from an environmental standpoint).

5. Finally, we would again emphasise that the sale of Gatwick alone would not address the fundamental problem of BAA's market dominance in the London airports market if the airport expansion proposals which are supported by the Government's 2003 Air Transport White Paper were to be implemented. The following table illustrates this point

<b>Airport</b>	<b>Projected passenger throughput 2030 (m)</b>
Heathrow	135.0
Gatwick	40.0
Stansted	70.0
Luton	15.0
London City	4.0
<b>Total</b>	<b>264.0</b>
<b>BAA share</b>	<b>78%</b>

*'UK Air Passenger Demand and CO2 Forecasts 2030', DfT, Nov 2007, Table 2.15*

We have no strong view on whether Heathrow or Stansted should be sold alongside Gatwick but clearly it must be one or the other.

Yours faithfully



Peter Sanders  
Chairman