

**COMPETITION COMMISSION  
MARKET INVESTIGATION ON THE  
SUPPLY OF AIRPORT SERVICES  
BY BAA IN THE UK**

Government response to  
the Competition  
Commission's report, "BAA  
Airports Market  
Investigation"

JULY 2009

## Introduction

1. This document records the Government's position in relation to the recommendations to Government made by the Competition Commission (CC) in its report "*BAA Airports Market Investigation: A report on the supply of airport services by BAA in the UK*" (March 2009).

## Context and background

2. The final report of the CC's market inquiry into the airport services provided by BAA in the UK was published on 19 March 2009. This followed a 2-year inquiry by the CC which was launched following a market investigation reference by the Office of Fair Trading (OFT) on 29 March 2007. This reference was underpinned by the OFT report "*UK Airports – report on the market study and proposed decision to make a market investigation reference*", published on 12 December 2006.
3. In its report, the CC concluded that there are features of the airports market that prevent, restrict or distort competition. Specifically, the findings fall into four categories:
  - i) The impact of common ownership of BAA airports;
  - ii) Aspects of the planning system which act as a barrier to entry of new airports and expansion of existing ones;
  - iii) The current system of economic regulation of airports; and
  - iv) Aspects of Government policy.
4. We note that BAA has now appealed to the Competition Appeal Tribunal (CAT) against the CC's report. BAA alleges that the CC's findings in its report requiring the divestiture of Gatwick Airport, Stansted Airport and either Edinburgh or Glasgow Airports (and the findings on which that requirement is based) are unlawful on two separate grounds: (i) apparent bias; and (ii) proportionality. The CAT will consider BAA's appeal in due course.

## Remedies

5. The CC is obliged to consider appropriate remedies to the identified adverse effects on competition. The Government does not propose to comment on the divestiture remedies required by the CC, nor the appeal initiated by BAA.
6. Several of the remaining recommendations in the CC's report are made specifically to Government in the context of the economic regulation of airports and Government policy on airports. This document sets out the work that will be taken forward in these areas over the coming months.

## **Economic regulation of airports**

The CC's recommendations to Government relating to the framework for the economic regulation of airports were set out in paragraphs 10.377 (e) (i), (ii), (iii) and (iv).

On 9 March 2009, the Department for Transport (DfT) published a consultation document setting out proposals to reform the framework for the economic regulation of the UK airports sector<sup>1</sup>. This consultation forms part of a review of the economic regulation of airports which was announced by the Secretary of State for Transport in April 2008.

These proposed reforms are intended to provide a flexible economic regulatory framework for the airports sector that puts passenger experience at the centre of regulatory decision-making and processes as well as emphasising the environment, financeability, and the principles of Better Regulation. Under the proposals, the Civil Aviation Authority (CAA) would be given more powers, with appropriate checks and balances, to develop regulation to further passengers' interests and adapt the regulatory regime to reflect differences across the sector and changes over time.

The consultation closed on 5 June 2009. The Secretary of State for Transport will consider the responses to the consultation proposals and such other material as appears to be relevant and aims to reach a decision on how economic regulation of airports in the UK should be reformed before the end of 2009<sup>2</sup>.

## **Airports policy**

The recommendations to Government relating to airport policy in the CC report were set out in paragraphs 10.375-376 and 10.377 (f).

Through a National Policy Statement (NPS) on Airports<sup>3</sup>, the Government intends to build on the strategic policy framework, set out in *The Future of Air Transport* White Paper (ATWP), for supporting the sustainable delivery of the nationally significant airport infrastructure needed to serve the interests of air transport users and the wider UK economy.

The Government has stated that it plans to publish the airports NPS in draft by 2011. It has yet to take decisions on the precise scope and timetable for preparing an NPS on airports, but work on this is progressing.

The Government recognises that it will be important, when developing the

---

<sup>1</sup> <http://www.dft.gov.uk/consultations/open/ukairports/consultationdocument.pdf>

<sup>2</sup> The separate legislation that provides a framework for airport economic regulation in Northern Ireland closely follows that for other parts of the UK and is overseen by the CAA. The Department for Transport will work closely with the Northern Ireland Executive in developing policy for Northern Ireland.

<sup>3</sup> For airport development, the Planning Act 2008 applies in England only and the Airports NPS would therefore only cover English airports.

NPS and the next ATWP progress report, to consider all relevant changes in the aviation sector.

### **The London Air Traffic Distribution Rules (TDRs)**

The Government will give further consideration as to whether there is a case for a review of the TDRs.