

Mr Ken Cheong  
Civil Aviation Authority  
CAA House  
45-59 Kingsway  
London WC2B 6TE

17<sup>th</sup> July 2012

Dear Ken,

**Re. Review of Price Regulation at Heathrow, Gatwick & Stansted Airports ("Q6") – Policy Update**

This letter provides Ryanair's initial response to the CAA's Review of Price Regulation at Heathrow, Gatwick & Stansted Airports ("Q6") – Policy Update. As the regulatory process progresses, further comments will be provided, as appropriate and as issues arise.

**New Framework for Economic Regulation & Market Power**

Ryanair is broadly supportive of the new Civil Aviation Bill and the increased flexibility this will afford the CAA. A proportionate degree of regulation is of course, desirable; however, it would be unfortunate if the CAA felt itself somehow obliged to demonstrate its sense of proportion, by arbitrarily applying differing degrees of regulation at Heathrow, Gatwick and Stansted, in circumstances that require something more consistent.

It is therefore concerning to note that, since its July 2011 policy consultation and in advance of any outcomes from its investigation into the airports market, the CAA appears to have adjusted its views on the degree of market power possessed by each airport. For example, in July 2011 the CAA said:

*'The CAA sets controls on the prices these three airports [Heathrow, Gatwick and Stansted] can charge airlines. The main reason for this is that competition is not sufficiently developed in the provision of airport services to prevent them from exploiting their market power.'*

In its January 2012 Heathrow, Gatwick and Stansted – market power assessments: Summary of the CAA's Initial Views' the CAA said:

*'... we see Stansted as enjoying the least market power of the three airports being assessed and, whilst the evidence is currently not sufficiently clear to reach a definitive view, it appears that any position of substantial market power arises from the relative bargaining positions of the airport and the airlines during a relatively narrow peak period.'*

The CAA went on to add that ownership has a bearing on the question of market power at Stansted; however – and whilst Ryanair agrees that ownership is important, the CAA presented no evidence to substantiate any of its views. Most importantly, the CAA made no mention of airlines inability to switch operations from Stansted to other airports in the same market, or indeed the total failure of airlines' redeployment of capacity away from Stansted to discipline the airport. It is quite astonishing that the CAA has ignored these fundamental points.

In the current consultation, the CAA says:

*'Stansted has less market power than Heathrow and Gatwick, and the degree of substantial market power at Stansted is uncertain.'*

It is entirely unclear how the CAA has come to change its views on market power at Stansted so radically and now to a position of such clarity (in that Stansted has less market power than the other two airports), whilst at the same time acknowledging the lack of definitive evidence. Please explain how this has come about.

I should remind you that in 2007/8, the previous regime at the CAA took a similar position, which was strongly opposed by airlines and which was eventually dismissed by the Secretary of State. This led to the unfortunate situation in early 2009, wherein the CAA was obliged to set a cap for Stansted, but admitted that it had not done - and did not have time to do - the required work. This culminated in the Competition Commission stepping in and the CAA fudging price caps, which (unsurprisingly) coincided with those proposed by the Competition Commission.

In the absence of any reasonable explanation as to why the it has changed its views on market power, the assumption must be that the CAA is planning to reduce the degree of regulation at Stansted on the basis of a false perception that by adopting a range of approaches, this will somehow validate it's competence in applying its new powers. It will not; it will simply lead to recrimination and review.

### **Structure of Regulation**

The CAA (rightly) points out that under a RAB-based approach – and following the recent traffic decline – the price cap at Stansted could increase in Q6. When considering the implications of this, the CAA must not lose sight of the three key facts.

1. The RAB at Stansted is inflated by assets that do not exist; that offer no benefits to airlines; and to which airlines universally objected. It is quite wrong to assume that just because the airport is unable to realise its anticipated rate of return on this irrelevant benchmark, this somehow translates into unprofitability.
2. The traffic decline at Stansted results from the doubling of charges in 2007 – and that the airport is able to maintain this, clearly demonstrates that it is profitable. So, irrespective of whether or not the CAA considers the current level of charges to be at the competitive level, the removal of the existing price cap would doubtless see a further increase in airport charges at Stansted.
3. Operating costs at Stansted are considerably higher than would be incurred by any organisation seeking to act competitively. The SDG mid-Q report for Stansted highlights a long list of inefficiencies in operating costs at Stansted – all of which are recovered through airport charges.

Ryanair is therefore interested in exploring appropriate alternative approaches to setting price caps at Stansted; however, is extremely concerned at the CAA's adoption of the term '*transitional approach*'. This implies changing from one state to another, seemingly from regulated to un-regulated. Please explain what the CAA means by '*transitional approach*' and whether this indicates that the CAA has prejudged the outcome of its market power investigation.

### **Passengers' Interests**

Ryanair welcomes the CAA's recognition of '*the alignment that often occurs between the interests of passengers and the commercial interests of airlines...*'

The CAA will be aware that airlines have proposed a Passenger Charter for Stansted, which sets common minimum service standards and hold parties liable for the costs resulting from failure to achieve these. The airport operator has declined to contemplate this, on the basis that it currently bears no liability and sees no reason to participate in such an agreement. That it can blatantly allow its direct customers (airlines) to bear the financial consequences of its own service failure is indicative of Stansted's market power.

Yours sincerely,



Ian Clayton  
General Manager, UK Operations