

**Complaint to the Civil Aviation Authority under
Section 48 of the Airports Act 1986 made by
Ryanair Limited about Gatwick Airport
Limited's compliance with the Transparency
Condition with respect to check-in desks.**

**The CAA's Decision on GAL's compliance and
Proposed Remedy**

June 2011

CONTENTS

1. Complaint to the CAA	3
2. Relevant background	5
3. CAA finding	7
4. CAA remedy	11
Appendix 1: GAL's compliance with paragraphs of Transparency Condition	13

1. COMPLAINT TO THE CAA

- 1.1 On 18 August 2009 Ryanair complained to the CAA under section 48 of the Airports Act 1986 ("the Act"), that Gatwick Airport Limited (GAL) had not complied with the Transparency Condition by providing it with sufficient information to show how it determined its charges for check-in desks and associated baggage facilities. The complaint covered each of the six years from 2004/5 to 2009/10.
- 1.2 Under the Transparency Condition, GAL has to provide specific information to users, including a statement of the pricing principles for each item charged and relevant cost information, or other information, to verify that the charges derive from the application of the pricing principles.
- 1.3 Under section 48(3) of the Act if the CAA is satisfied that an airport operator is failing to comply with a condition, or has failed to comply and is likely again to fail to comply, the CAA shall either:
 - by order make provision for the purpose of securing compliance with the condition and for remedying any loss or damage sustained by any person in consequence of the failure to comply; or
 - modify the condition¹.
- 1.4 Under section 48(5) of the Act if the CAA is satisfied that an airport operator has failed to comply with a condition (but not that it is for the time being failing to comply with it or is likely again to fail to comply with it), the CAA may by order make provision for the purpose of securing compliance with the condition and for remedying any loss or damage sustained by any person in consequence of the failure to comply.
- 1.5 On 8 November 2010, the CAA published its preliminary findings on the complaint. The CAA's preliminary view was that GAL had not fully complied with all the requirements of the Condition. It had not provided adequate information to show that its charges were derived from the pricing principles, neither at an aggregate level where it sought to recover the costs related to check-in and baggage facilities through charges, nor at the level of individual charges which were not cost-related. It

¹ Under section 51(6) of the Act, the CAA may make such modifications to conditions as it considers appropriate, or revoke conditions, as long as the modifications, or revocation, would not permit the occurrence or recurrence of the adverse effects to the public interest.

had also failed to send information to all users, instead sending it to the AOC (airline representative body) and some individual users.

- 1.6 The CAA received representations from GAL, Ryanair and easyJet in response to its preliminary findings. GAL argued that it had complied with the Condition, whilst Ryanair and easyJet argued that it had not complied.
- 1.7 At the same time as it made its complaint under section 48 of the Act, Ryanair also appealed to the CAA under Regulation 20 of the Airports (Groundhandling) Regulations 1997 ("the Groundhandling Regulations") that GAL's charges for check-in desks had not been determined according to relevant, objective, transparent and non-discriminatory criteria as required by the Groundhandling Regulations. On 31 May 2011, the CAA published its decision on Ryanair's appeal². The CAA found that GAL's charges had not been determined according to the criteria, and issued a direction to GAL to secure that its future charges are set according to the criteria. The CAA's investigation of the section 48 complaint has been conducted independently of its investigation of the appeal and accordingly it gathered evidence separately for each case. While some of the information presented was common to both cases, the CAA has not taken into account in its consideration of the section 48 complaint information that was provided exclusively for the appeal.

² Appeal to the Civil Aviation Authority under Regulation 20 of the Airports (Groundhandling) Regulations 1997 made by Ryanair Limited against Gatwick Airport Limited and BAA Airports Limited – The CAA's decision (May 2011)

2. RELEVANT BACKGROUND

- 2.1 In 1990, the CAA referred GAL to the Monopolies and Mergers Commission (MMC) as part of the periodic price control review of Gatwick's airport charges under section 40 of the Act. During the MMC's investigation, a number of airlines said that GAL had provided them with insufficient information to enable them to judge whether a number of non-regulated charges were excessive, therefore hindering their ability to complain to the regulatory authorities. The MMC found that the provision of inadequate information on the costs or other bases for charges for a number of services and facilities for airlines, tenants and licences by GAL was a course of conduct which may be expected to operate against the public interest. The effects adverse to the public interest were that GAL was in a position to impose charges for individual activities that were not systematically related to costs, and increases in charges unrelated to and in excess of increases in costs.
- 2.2 In November 1991, the CAA imposed a Condition on GAL to remedy the adverse effects of GAL's conduct as required by section 46(2) of the Act³.
- 2.3 The Condition (termed the Transparency Condition) requires GAL to provide certain information each year on the specified services and facilities, which include check-in desks. In summary, the current Condition requires GAL:
- (1) to inform the CAA of the system used by it to allocate costs to non-airport charges activities;
 - (2) to provide to the CAA statements of actual costs and revenues in respect of each of the specified facilities;
 - (3) to provide to the CAA and to users or organisations representing users a statement of the pricing principles for each item charged;
 - (4) to provide to the CAA and to users or their representatives the assumptions and relevant cost information adequate to verify that the charges derive from the application of the pricing principles;
 - (5) where costs in connection with a charge vary from those provided in the Profit Centre Reports (PCRs) to provide to the CAA and to users or their representatives a reconciliation with detailed reasons for such differences;

³ The MMC's public interest finding also related to Heathrow and Stansted airports. The CAA imposed identical transparency conditions on Heathrow Airport Limited and Stansted Airport Limited.

(6) where charges for the specified facilities are not established in relation to cost, to provide to the CAA and to users and their representatives a statement of the principles on the basis of which the charges have been set with full background information; and

(7) from 1 April 2008, where in respect of any year forecast revenue for any of the facilities differs from that forecast for the purposes of the price control review, to provide to the CAA and to users or their representatives detailed reasons for the differences

2.4 In each year since the Condition was imposed, GAL has produced documents in connection with the requirements of the Condition. These documents are::

- “Transparency Conditions” which contains Profit Centre Reports (PCRs) for the specified facilities and broad principles of cost allocation; and;
- “Specified Activity Pricing: Pricing Statements” which contain pricing principles, and pricing statements for the individual facilities.

2.5 For 2009/10, instead of Specified Activity Pricing: Pricing Statements, GAL produced a document “Specified Activity Financial Information” which contained pricing principles, pricing statements for the individual facilities, income reconciliations to the Q5 settlement, and reconciliation of PCR to pricing statements.

2.6 Ryanair’s complaint covers the period from when GAL introduced per passenger charges on 1 April 2004. The charges were varied according to service level, and named gold, silver and bronze. From 1 April 2007, GAL introduced some additional charges designed to incentivise use of new methods of check-in, such as internet check-in and day before check-in.

3. CAA FINDING

Decision

- 3.1 Following evaluation of evidence and representations, the CAA has found that GAL is failing to comply with the Condition by not providing to the CAA and to users or their representatives a statement of the pricing principles for each item charged, and the assumptions and relevant cost information adequate to verify that the charges derive from the application of the pricing principles. This is required by paragraphs 3 and 4 of the Condition. As GAL's individual charges are not each directly related to cost, the finding also applies to paragraph 6 which requires information to be provided when charges are not established in relation to cost.

Reasoning

- 3.2 The arguments around GAL's compliance with the Condition were mainly concerned with the level of information GAL is required to provide under the Condition, and to whom it is required to send the information. These issues are discussed below.

Level of information to be provided

- 3.3 The CAA's preliminary view was that GAL is required to provide the information set out in the Condition in full, but that the test the airport has done so is not necessarily the absence of airlines requesting greater clarity or additional information. None of the respondents disagreed with this view, but they disagreed whether GAL had supplied sufficient information to meet the requirements in the Condition.
- 3.4 easyJet thought that the reasons for the public interest finding implied that compliance with the Condition should be linked to the amount and quality of information, which the CAA would require in order to ascertain whether charges are excessive or otherwise anti-competitive. However, the information required by the CAA to make such a determination is likely to be extensive. The CAA does not believe that it would be proportionate for GAL to have to provide such level of detail for each of the specified activities in each year. Instead, the CAA considers that the MMC's concern when making its public interest finding stemmed from a lack of information on whether GAL had a systematic way of setting charges. This concern has been alleviated by the requirements in the Condition for GAL to provide information on the airport's cost allocation methods and the PCRs.

3.5 The CAA considers that the test of whether GAL has provided sufficient information is whether users have sufficient information to understand the basis of their charges and, if necessary, to challenge the level or structure of charges consistent with the public interest concerns originally identified by the MMC. In this case, the CAA notes that Ryanair has challenged the charges under the Groundhandling Regulations. However, the CAA also notes that the Condition is designed to provide some protection to all airlines, including those who do not have the same level of resources as Ryanair devotes to these matters. The fact that Ryanair alone challenged the charges is not of itself a sufficient basis to conclude that GAL had provided sufficient information.

3.6 The CAA's findings on whether GAL has provided sufficient detail for each of the paragraphs of the Condition are shown below. (A fuller analysis of GAL's compliance with the paragraphs is at Appendix 1.)

(1) system used to allocate costs to non-airport charges activities – GAL provided sufficient detail on its cost allocation system in each year.

(2) statements of actual costs and revenues for each of the specified facilities – GAL provided statements of actual costs and revenues in each year.

(3) statement of pricing principles for each item – GAL stated that it aimed to recover its costs at an aggregate level each year. However, it did not provide statements of pricing principles for its individual charges for any of the years.

(4) assumptions and relevant cost information adequate to verify that charges derive from the application of pricing principles – GAL did not provide information showing how its individual charges were derived from pricing principles in any of the years.

(5) where costs stated by GAL vary from those in the PCRs, a reconciliation with detailed reasons for such differences – GAL provided the required reconciliation in each year.

(6) where charges are not established in relation to cost, a statement of the principles on the basis on which charges have been set with full background information – GAL provided no information on how it set its individual charges, which were not cost-related, in any of the years.

(7) where forecast revenue differs from that forecast for the purposes of the Q5 price control review, detailed reasons for the differences – GAL provided reasons for the differences.

Distribution of Information

- 3.7 The CAA's preliminary view was that GAL should provide information to all users, unless they had indicated that they would be content for the information to be sent to a nominated representative body instead. The CAA's preliminary finding was that GAL had not complied with the Condition by sending information to the AOC and some users in each year, but not to all users.
- 3.8 Ryanair and easyJet agreed with the CAA. Ryanair concurred with the CAA's view that it would be odd if a condition imposed for the purpose of enabling individual users to assess whether their charges were excessive could be fulfilled by not providing the information to all users. Ryanair said that some information about the move to a new incentivised structure of charges had not been shared outside of a small working group, which meant that the majority of airport users were not adequately equipped to assess the fairness and cost-reflectivity of their charges.
- 3.9 GAL said that the Condition requires it to provide information to users, or alternatively, to their representatives. The Condition does not stipulate that it has to ensure that information is distributed separately to all airlines, and that the reference to users' representatives may be properly interpreted as a reference to the AOC, whose membership was open to all airlines operating at the airport. It had adopted a practical and common sense approach by following the standard airport practice of providing information through the AOC to those airlines happy to be represented by the AOC, or other airlines attending AOC consultations, and speaking directly to those airlines who wished to present their case separately from, or in addition to, the AOC. GAL said that no user had complained about this method of transmitting information before Ryanair's complaint.
- 3.10 The CAA's view remains that it would be odd if the Condition could be met when information is not provided to all users. Otherwise, all users would not have the information to assess whether or not to make a complaint. However, the CAA notes that the wording of the Condition is open to the interpretation that it can be fulfilled by GAL sending the information to a user representative body rather than to individual users. Given that GAL has relied upon this interpretation and the CAA has not received any complaints prior to the current one, the CAA, on balance, considers that

it would be disproportionate to find that GAL has not complied with the Condition by not sending the information to each individual user. The CAA considers, however, that the Condition should be modified to clarify that GAL should provide the information to all users unless the user has advised GAL that it is content for the information to be sent to another body, such as the AOC, on its behalf. The CAA intends to use its powers under section 51(6) of the Act to do this.

Other Matters

- 3.11 In its response to the CAA's preliminary findings, GAL said that neither the CAA nor airlines had previously raised the issue of its compliance with the Condition. The CAA, however, does not regard this as determinative of whether GAL has complied with the Condition. In its regulation, the CAA does not routinely check whether airports comply with all the requirements of economic regulation. Instead, it adopts a risk-based proportionate approach in which its main concern is to consider issues which have been raised by users. This is consistent with the scheme under the Act which provides for the enforcement of conditions only where triggered by complaints. The absence of previous correspondence with the CAA, therefore, should not be considered as implying that the CAA has assured itself of GAL's compliance with it in previous years. Similarly, the CAA would not expect airlines to check routinely whether GAL has complied with the Condition, but only to consider GAL's compliance if they have concerns about particular charges. This is consistent with GAL's comments that, over the years, it has provided additional information in response to airline requests.

4. REMEDY

- 4.1 The CAA has found that GAL is failing to comply with the Condition in certain respects (see paragraph 3.1). When an airport is failing to comply with a Condition, or has failed to comply and is likely again to fail to comply, the CAA must either:
- by order make provision, as it considers appropriate, for the purpose of securing compliance with the Condition and for remedying any loss or damage sustained, or injustice suffered; or
 - modify the Condition as it considers appropriate.
- 4.2 The CAA considers that GAL should be required to provide users with the principles on which its charges are set and adequate information showing that charges have been calculated using these principles. This requirement is contained in the Transparency Condition. However, the requirement for transparency is also in the Groundhandling Regulations. As mentioned above, Ryanair appealed to the CAA about GAL's check-in desk charges under the Groundhandling Regulations, and the CAA's decision on that appeal addressed the need for transparency with respect to those charges. The CAA considers that the Groundhandling Regulations and the Transparency Condition both seek to achieve the same policy goal and any remedy in this context should be framed so as to produce a regulatory outcome that is both consistent and proportionate.
- 4.3 The CAA therefore considers that compliance with the substantive requirements of the Transparency Condition (with respect to check-in and baggage facilities), and therefore addressing the public interest concerns it was designed to remedy, can be achieved if GAL ensures it meets its obligations under the Groundhandling Regulations. As such, the CAA is minded to frame its order under section 48(3)(a) of the Act by reference to the requirements of the Groundhandling Regulations. The CAA therefore is minded to order GAL to ensure that it fully complies with Regulation 16 of the Airports (Groundhandling) Regulations 1997 in respect of information about check-in desk charges and related charges.
- 4.4 The order shall have effect for as long as the relevant condition remains in force. The CAA will separately give consideration as to whether the identified overlap between the Transparency Condition and the Groundhandling Regulations merits a further modification under section 51 of the Act so as to remove check-in desks and baggage systems from the list of specified facilities in paragraph 8. There is a

precedent for amending or revoking a public interest condition where the conduct in question is effectively covered by separate legislation that post-dated the condition. In 2008 (2009 for Stansted), the CAA revoked the conditions on GAL, Heathrow Airport Limited and Stansted Airport Limited prohibiting them from levying turnover related levies on off-airport suppliers of airport cleaning and catering services, as the Regulations provided a sufficient deterrent against the introduction of such levies reinforced by findings of the European Court of Justice.

4.5 The CAA can make provision to remedy any loss or damage sustained, or injustice suffered. In this case, it has not been presented with any claim for loss. The CAA understands that Ryanair has not been paying the charges in question in full for the period for which GAL has been non-compliant, and that in recent years it has not been paying them at all. Therefore, the CAA's current view is that it is not clear what loss or damage has been sustained, or injustice suffered, that requires the regulator to impose a financial remedy. In any case, there is a separate case in the High Court that is concerned with the payment of charges, and the CAA considers that it would be more appropriate for any financial remedy to be settled there.

4.6 The CAA therefore requests views on its proposed remedy

Please could you send your views, if possible, by e-mail to rod.gander@caa.co.uk by no later than 14 July 2011. Alternatively, comments may be posted to:

Rod Gander
Regulatory Policy Group
CAA House
45-59 Kingsway
London, WC2B 6TE

4.7 This document does not constitute notification to the complainant (Ryanair) or to the airport operator (GAL) for the purposes of Regulation 13(1) of the Civil Aviation Authority (Economic Regulation of Airports) Regulations 1986. The CAA will issue such a notification once it has considered views requested in section 4.

APPENDIX 1. GAL'S COMPLIANCE WITH PARAGRAPHS OF TRANSPARENCY CONDITION

A1 This appendix contains the CAA's assessments of GAL's compliance with each of the paragraphs of the Condition for the years in question.

1. By 31 December [2008⁴] and by 31 December in each subsequent year GAL shall inform the CAA of the system used by it to allocate costs to non-airport charges activities. GAL shall make any amendments to its cost allocation system if so requested by CAA by 31 March prior to each charging year commencing on 1 April.

A.2 For each year from 2004/5 to 2009/10 GAL has sent the CAA its "broad principles of cost allocation" in the document "Transparency Conditions". The CAA's preliminary view was that this was sufficient to find that GAL had complied with paragraph 1.

A.3 GAL agreed with the CAA's preliminary finding. Ryanair and easyJet thought that the information was insufficient to explain fully GAL's cost allocation system. easyJet mentioned that it did not show the cost drivers used to allocate fixed and common costs to specific activities.

A4. The CAA's view remains that, for its purposes, GAL has provided sufficient detail to show how it allocates costs, including an explanation of cost drivers and that it does not require more detail each year. If the CAA was to require further information on any particular allocation, it can request this from GAL.

A5. The CAA, therefore, does not find that GAL failed to meet the requirement in paragraph 1 in each year from 2004/5 to 2009/10.

2. By 31 December [2008⁵] and by 31 December in each subsequent year GAL shall provide to the CAA statements of actual costs and revenues in respect of each of the facilities specified in paragraph 7⁶ for the year ending the previous March.

⁴ The date in the original Transparency Condition was 1991. This was amended in the revised Condition to 2008.

⁵ The date in the original Transparency Condition was 1991. This was amended in the revised Condition to 2008.

⁶ This reference should have been changed in the revised Condition to paragraph 8.

- A6. For each year from 2004/5 to 2009/10, GAL has provided to the CAA statements of actual costs and revenues for each of the specified activities (including check-in desks) in "Transparency Conditions".
- A7. In March 2010, Ryanair said it had seen "Transparency Conditions" for 2006/7 and thought the information was insufficient in two respects. The costs shown were different from those in the Specified Activity Pricing: Pricing Statements ("Pricing Statements") for that year and there was no breakdown of revenue in respect of the individual check-in desk charges.
- A8. In its preliminary findings, the CAA said that as paragraph 5 of the Condition requires transparency on differences between costs in the PCRs (which are included in Transparency Conditions) and those used in connection with a particular charge (in the Pricing Statements), the Condition envisaged that the costs in the two documents did not have to be identical. On the revenue breakdown, the CAA noted that as paragraph 2 does not explicitly ask for a breakdown of revenues for separate charges, that the statements of revenue on an aggregate basis were sufficient for compliance with paragraph 2. The CAA's preliminary finding, therefore was that GAL had complied with paragraph 2.
- A9. GAL agreed with the CAA's preliminary finding. Ryanair asked the CAA to give further consideration to whether GAL had provided sufficient detail, but provided no new arguments. The CAA has given further consideration to the matter, but in the absence of any new reasoning has concluded that there are no grounds for concluding that GAL failed to comply with the requirements on paragraph 2 in each year from 2004/5 to 2009/10.

3 Each year GAL shall provide to the CAA and to users or organisations representing users of the specified facilities prior to implementing any price changes a statement of the pricing principles for each item charged.

- A10. GAL has sent the CAA, Gatwick AOC and some airlines "Pricing Statements" for each year from 2004/5 to 2008/9. In 2009/10 GAL sent instead the Specified Activity Financial Information document. In each document, GAL says that its charges are designed to recover costs (including a return on capital) over time.
- A11. In its preliminary findings, the CAA regarded paragraph 3 as covering principles for prices that are cost-related and paragraph 6 as relating to charges which were not

cost-related. On this basis, its provisional finding was that GAL had provided the information required by paragraph 3 but not to all users or their representatives.

- A12. In response to the preliminary findings, GAL agreed that it had provided sufficient information, but, as mentioned above, in paragraph 3.9, considered it had complied with the requirement in paragraph 3 to provide information to all users or organisations representing users, by sending the information to the AOC and to some, but not all, individual users. As mentioned above, in paragraph 3.10, the CAA accepts that GAL could have reasonably interpreted the requirement in this way, and its failure to distribute information to all users should not be regarded as non-compliance.
- A13. On reflection, the CAA considers that its distinction between cost-related and other charges is not relevant in the context of check-in desk charges where, although GAL aims at cost-recovery at an aggregate level, none of the charges it actually levies appear to be wholly cost-related. Instead it considers paragraph 6 as clarifying the requirement in paragraph 3 to provide pricing principles for its charges. (The CAA's provisional finding was that GAL had not complied with paragraph 6 by not providing pricing principles for non-cost related charges.)
- A14. The CAA recognises that for 2009/10 GAL supplemented its statement that prices were cost-related by additional principles such as incentivising the most efficient use of constrained airport infrastructure and user-pays principles. However, there was insufficient detail to show how the principles related to the individual charges. In conclusion, the CAA does not consider that GAL has provided the pricing principles for each item charged in any of the years from 2004/5 to 2009/10.
- 4. Each year including the current year GAL shall provide the CAA and users or their representatives the assumptions and relevant cost information adequate to verify that charges derive from the application of the pricing principles.**
- A15. In its preliminary findings, the CAA said it had not received from GAL information adequate to verify that charges derived from the application of the pricing principles for any of the years from 2004/5 to 2009/10. However, GAL had sent information to the CAA and those airlines that had participated in specific consultation groups for the years 2006/7 and 2009/10, that showed how in aggregate check-in desk charges derived from the principle of cost recovery. Overall, the CAA found that GAL had not complied with paragraph 4.

- A16. In response to the preliminary findings, GAL said that the information it had sent to the FPRCG consultation group⁷ for 2009/10 charges had also been sent to FPRCG in recent years. GAL said that the Pricing Statements clearly set out the costs to be recovered. Ryanair agreed with the CAA that GAL had not showed how charges were aligned with the pricing principles.
- A17. The CAA accepts that GAL had sent information to FPRCG in recent years showing how its charges in aggregate relate to cost recovery. However, while the Pricing Statements show costs, they do not show the prices for the year ahead, or how the prices relate to costs.
- A18. In its preliminary findings the CAA had regarded that paragraph 4 related to cost-related charges (that is charges at an aggregate level) whilst paragraph 6 related to non-cost-related charges (the individual charges). However, similar to its views on paragraph 3, the CAA on reflection does not consider this a valid distinction, and regards paragraph 4 as applying to the charges actually levied (i.e. individual charges). On this basis, the CAA does not consider that GAL has complied with paragraph 4 by providing information adequate to show that charges derive from the pricing principles in any of the years from 2004/5 to 2009/10.
- 5. Where the costs stated by GAL to be in connection with a particular charge vary from those provided in the Profit Centre Reports (PCRs) supplied to the CAA, GAL shall provide to the CAA and to users or their representatives a reconciliation with detailed reasons for such differences.**
- A19. In its preliminary findings, the CAA said that GAL had provided it with the required reconciliation between its cost information and the PCRs. GAL had also provided the information to the AOC and some, but not all, individual users.
- A20. In response to the preliminary findings, GAL agreed that it had sent the required information in each year. Ryanair mentioned that the example used by the CAA to show compliance post-dated the sale of GAL, and that it could not locate any reconciliations of costs to PCRs for years before the sale. Ryanair also thought that the example did not provide a full reconciliation to the PCRs, as discrepancies had to be identified with the reasons for them set out clearly. Saying there were differences in accounting practices and explaining cost allocations in broad terms was not sufficient.

⁷ Financial Performance and Regulated Charging Group.

A21. The CAA remains of the view that reconciliations were also provided for each year before GAL's sale, and that differences were shown and the reasons for them explained. Given the CAA's acceptance that GAL's method of distributing information to users did not constitute non-compliance, the CAA is satisfied that GAL has complied with paragraph 5 in each of the years from 2004/5 to 2009/10.

6. Where charges for the specified facilities are not established in relation to cost GAL shall provide to the CAA and to users or their representatives a statement of the principles on the basis of which the charges have been set with full background information as to the calculation of such charges including statements of any comparables used.

A22. In its preliminary findings, the CAA said that GAL had not provided the pricing principles nor any background information for individual charges that were not cost-related. Ryanair and easyJet agreed. Ryanair remarked that without such information, users were not in a position to evaluate properly their individual charges.

A23. GAL said that the Condition was clearly aimed at the overall basis on which charges were based, and was not concerned with the individual apportionment of charges among users. Although charges were cost-related, in the apportionment of those charges there was an element of incentivisation for more efficient methods. GAL said it had made clear both these principles to airlines, both collectively through the AOC and to individual airlines.

A24. The CAA does not accept that the condition is aimed at charges collectively rather than the actual charges levied on users. The Condition uses phrases such as "each item charged" and "particular charge" which indicate that it is concerned with individual charges. Also, one purpose of the Condition is to allow users to decide whether they could complain about a charge to the CAA under section 41 of the Airports Act. Unless information is provided on individual charges users would find it difficult to judge whether they could complain about a particular charge. The CAA, therefore, does not accept GAL's contention that the Condition is aimed at charges overall.

A25. The CAA's view remains that GAL has not complied with paragraph 6.

7. Where in respect of any year forecast revenue for any of the specified facilities differs from that forecast for the purposes of the price control review for the

period 1 April 2008 to 31 March 2013 (as specified by the CAA⁸), GAL shall provide to the CAA and to users and their representatives detailed reasons for the differences.

- A26. This paragraph was added to the Condition with effect from 1 April 2008. In its preliminary findings, the CAA said that GAL had partly complied with paragraph 7 by providing the required reconciliation for each relevant year to the CAA, the AOC and some users. However, GAL had not sent it to all users, or their representatives.
- A27. Ryanair mentioned that it had no record of receiving the information for 2009/10. However, GAL's records show that it had been e-mailed to Ryanair.
- A28. As mentioned above, the CAA accepts that GAL's method of distributing the information to users should not be considered as non-compliance. Given this, the CAA's view is, therefore, that GAL has complied with paragraph 7 of the Condition with respect to check-in desks (and associated baggage facilities) for the relevant years.

⁸ In Table 6.4 of Airport Regulation: Economic Regulation of Heathrow and Gatwick Airports 2008-2013 – CAA decision, March 2008