

## easyJet Submission to CAA Heathrow, Gatwick & Stansted Airports: Review of Existing Public Interest Conditions.

1. This submission is made on behalf of easyJet Airline Company Limited ("easyJet"), a wholly-owned subsidiary of easyJet plc, a company publicly traded on the London Stock Market, in response to the "*Heathrow, Gatwick & Stansted Airports: Review of Existing Public Interest Conditions*", published by the Civil Aviation Authority (CAA) in October 2006.
2. In relation to the 1991 finding on *Provision to Users on Information on Charges for Specified Services at Heathrow, Gatwick & Stansted*, easyJet notes that although this would seem to indicate that appropriate information should be provided to users, the condition imposed by the CAA in fact only requires BAA to provide *cost allocation and actual costs and revenue* information to the CAA. Users on the other hand are entitled to *pricing principles and assumptions*. (Paragraph 3.2 & Appendices 1 to 3.)
3. easyJet believes that in spite of the condition imposed by the CAA, BAA continues to pursue a policy of maximisation of revenues from specified activities. Indeed the CAA's own figures show that at Gatwick BAA exceeded its forecast revenues by 11% and 8% in 2003/4 and 2004/5 respectively – and by -1% and 12% at Heathrow. (*Airports Price Control Review – Initial Proposals for Heathrow, Gatwick & Stansted, Table 13-3.*)
4. BAA has sought to justify above-RPI increases to users by various means, notably that it aims only for cost recovery. In setting a benchmark for this however, it has incorporated capital annuities, comprising both depreciation of and a return on an asset. It is therefore possible for BAA to realise returns and recover depreciation on its assets through both RAB-based airport charges and specified charges and without transparency, users cannot know whether this is the case. This notwithstanding, under a single-till system any such benchmark is meaningless: the only relevant measure is the assumptions the CAA made in setting airport charges and as demonstrated in the previous paragraph, these have been exceeded by some degree.
5. Considering the history of specified charges, the CAA cannot realistically rely on an '*[expectation] that BAA will be more forthcoming... in the provision of information...*' (*Airports Price Control Review – Initial Proposals for Heathrow, Gatwick & Stansted, Paragraph 13.29.*)
6. **For these reasons, easyJet believes the CAA should place an additional or revised condition on BAA, in order to ensure that it cannot recover through specified charges more than was assumed by the CAA in setting airport charges.**
7. In relation to the 2002 finding on *Service Quality at Heathrow & Gatwick*, the effect against the public interest was that that '*Prices do not reflect the quality of service provided...*'
8. easyJet accepts that the SQR condition applied by the CAA has been a positive step, albeit that its impact has been reduced subsequent to the suspension of various elements. However it is clear that operational savings available to BAA outweigh potential rebates to users and therefore a strategy of revenue optimisation would not necessarily lead to improved service quality.
9. **easyJet therefore believes that the CAA should place an additional or revised condition on BAA, in order to balance potential operational savings and potential rebates, so removing any incentive to sub-optimize service quality.**
10. Airlines operating from Gatwick's North and South terminals pay the same airport charges, despite enjoying vastly different levels of service quality. In this way, airlines at the North

Terminal are effectively provided with a significant advantage over airlines operating from the South Terminal, such as easyJet, despite that to a significant degree they compete for the same passengers across overlapping networks.

11. This effectively distorts the market, as passengers requiring relatively simple service are forced to subsidise those with greater requirements - and this creates an unnatural bias in the choices available to passengers.
12. Charging similarly for the use of different quality infrastructure is just as discriminatory as levying different charges for similar infrastructure, something that is prohibited by international treaties and competition legislation. Indeed the European Court of Justice (ECJ) has confirmed that in relation to airport charges (particularly passenger charges), non-equivalent transactions for dissimilar conditions are allowed under community law (*ECJ judgement of 29<sup>th</sup> March 2001, Case C-163/99.*)
13. **Therefore, easyJet believes that if prices *are* to reflect the quality of service provided and UK airports are to comply with EU law, the CAA should place a condition on BAA to compel it to differentiate airport charges according to levels of service quality.**
14. easyJet sees no reason why such differentiation should affect the regulatory mechanism or aggregate price cap applied at any of the regulated airports.