

**NOTICE PUBLISHED IN ACCORDANCE WITH PARAGRAPH 8 OF SCHEDULE 1 TO THE AIRPORTS (GROUNDHANDLING) REGULATIONS 1997****GROUND HANDLING AT GATWICK AIRPORT****Introduction**

1. In 1998 the CAA made a determination under the Airports (Groundhandling) Regulations 1997(as amended) (the Regulations) to limit to four the number of suppliers of airside ground handling services at Gatwick Airport. The CAA subsequently modified the determination so that the number of suppliers of airside bussing services would be limited to two rather than four. Gatwick Airport Ltd (GAL) has now applied to the CAA to have both of these limits removed and, having considered GAL's application, the CAA is proposing to remove them. The CAA is also publishing separately GAL's application (except for confidential market data). GAL's application can be found on the CAA's website at [www.caa.co.uk](http://www.caa.co.uk).

**Views invited**

2. The process for dealing with proposals to make, amend or revoke a determination is set out in Schedule 1 to the Regulations. Any objections or representations about the proposal set out in this notice, including the grounds for the objection or representation, should be sent to the CAA by no later than **Tuesday 27 June 2006**. These should be sent to Susie Talbot at [Susie.Talbot@caaerg.org.uk](mailto:Susie.Talbot@caaerg.org.uk) or by post to Susie Talbot, Economic Regulation Group, CAA, 4<sup>th</sup> Floor, CAA House, 45-59 Kingsway, London WC2B 6TE. A copy of any objection or representation should also be sent to Mark Morris, Aviation Policy Manager, BAA plc, 2<sup>nd</sup> Floor, 130 Wilton Road, London SW1V 1LQ or by e-mail to [mark\\_morris@baa.com](mailto:mark_morris@baa.com) within 24 hours of sending it to the CAA.

**Next steps**

3. Those serving objections or representations should also state whether they wish to be heard by the CAA. Under the Regulations, certain persons have a right to be heard. These are:

- i) the managing body of the airport concerned;
- ii) an airport user; or
- iii) a supplier of groundhandling services.

The CAA may also hear others provided they have served an objection or representation.

4. If there are objections or representations from persons with a right to be heard and who ask to be heard, or from others who the CAA decides to hear, the CAA will arrange a public hearing as soon as practicable. The CAA will give at least 14 days notice of the date, time and place of any hearing consistent with the Regulations. If there is no need for a public hearing, the CAA will publish its decision as soon as possible after the end of the period for objections and representations.

## Background

5. Ground handling encompasses a variety of services provided to passengers and aircraft in both landside and airside areas at an airport. Some of the main services provided are, on the landside, passenger handling (eg passenger check-in) and on the airside, baggage, freight and mail handling, ramp handling (eg aircraft cleaning and catering), aircraft fuelling and the transport of passengers to and from aircraft (eg airside bussing). In some cases airlines are able to provide these services to their own flights and passengers (known as self handling) while in others the services are provided on a third-party basis either by an airline or by a specialist ground handling company. The precise arrangements vary from airport to airport.

6. The EC directive on ground handling (Council Directive 96/67/EC of 15 October 1996) has as its objective the opening up of the market for ground handling at Community airports. However, the Directive recognises that for some categories of handling, especially those provided on the airside, access to the market may need to be constrained because of safety, security, capacity and available space constraints. It therefore allows Member States to restrict both self-handling and third party handling, in some cases only with the approval of the European Commission. As far as airside handling services are concerned the Directive now allows Member States to limit (without reference to the European Commission) to no fewer than two the number of third party suppliers of baggage handling, ramp handling, fuel and oil handling, and freight and mail handling at airports with more than 2 million passengers.

7. Airports are generally responsible for appointing those who are able to provide self-handling or third party handling services both where the market is “unrestricted” or where a Member State has imposed a limit. The only situation where a Member State would appoint the handlers is where the number of ground handlers has been limited and the airport itself provides ground handling services. The Directive maintains the right for airports to provide services.

8. The Directive was given effect in the UK through the Airports (Groundhandling) Regulations 1997.<sup>1</sup> The Regulations implemented in full those Articles of the Directive that placed obligations on Member States but not those parts of the Directive that were discretionary (such as the introduction of a system of licensing of ground handlers). The Regulations therefore mirror the Directive and, for example, allow qualifying airports to apply to the CAA to limit to no fewer than two the number of airside ground handlers. The Regulations also allow the CAA to revoke a determination either on its own proposal or on application from the airport, a supplier of ground handling services or an airline. The Regulations include, in Schedule 1, a process for handling applications involving publication, objections and hearings.

### **GAL's original applications**

9. In 1998, GAL applied to the CAA to limit to four the number of airside ground handlers providing services at the airport. Its application was based largely on the considerations in the Directive of available space and capacity at the airport. The application attracted objections from two handling companies. Following a hearing, the CAA concluded that having regard to the underlying objectives of the Directive, its decision should be based primarily on arguments related to space and capacity at

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<sup>1</sup> This was subsequently amended by the Airports (Groundhandling) (Amendment) Regulations 1998.

the airport. On the evidence put to it, and in particular that presented by GAL, the CAA decided to grant GAL's application for a limit of four airside handlers as from 1 January 1999.<sup>2</sup> GAL had applied for the determination to be limited to seven years (i.e. until 31 December 2005) but the CAA's decision noted that it had no powers to specify a termination date although it would be possible to revoke or review the determination should circumstances change significantly from those then prevailing at Gatwick. As the limit of four implied an increase of one in the number of airside handlers previously operating at Gatwick, GAL subsequently tendered for a fourth handler. The identity of the four handlers has changed since 1998; the current handlers are, British Airways, Penauille-Aviance, Servisair and Swissport.

10. GAL subsequently applied to vary the earlier determination so that the limit on the number of suppliers of airside bussing services, one of the categories of airside handling, would be reduced from four to two. This was again largely founded on considerations of available space and capacity at the airport specifically for the bussing service. An objection to the application was subsequently withdrawn but the CAA decided to hear GAL's application. The CAA concluded, as before, that its decision should be based primarily on arguments related to space and capacity at the airport. On the basis of GAL's evidence, the absence of challenge to that evidence, the support of the airline community at Gatwick and an undertaking given by the airport to secure an effective choice of supplier for all airlines at Gatwick, the CAA granted the application.<sup>3</sup> The two companies that currently provide airside bussing services are British Airways and Airlinks.

### **GAL's latest application**

11. GAL's application states that since 1998 a significant number of changes have taken place at Gatwick such that it now wishes to see the limitations on the number of airside third party handlers lifted so that the service benefits to airport users of market liberalisation can now be realised. GAL has therefore applied to seek the revocation of the CAA's two determinations. GAL states that it has consulted the Gatwick Airport Users' Committee established under the Directive and that the Airport Users' Committee fully supports the application.

12. GAL has put forward a number of arguments in support of its application. These are summarised below:

*Changes have taken place at Gatwick since 1998 which have had the effect of releasing capacity and relaxing previous constraints. GAL also has plans for further capacity development of its airside baggage and other operational areas.*

13. GAL mentions several completed infrastructure changes, notably the completion of Pier 6 at North Terminal which has contributed to a more efficient use of the airside infrastructure and eased the pressure on airside space. Also the move of the South Terminal transfer baggage operation to a new and larger facility at the airport in 2005 has provided handlers with a larger and improved facility. Finally, the more extensive use of Common User Terminal Equipment (CUTE) allows greater flexibility in the use of airport facilities and provides benefits to those handlers providing the full range of services in the efficient utilisation of airport facilities.

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<sup>2</sup> CAA decision GH1/98 dated 24 July 1998 available at [www.caa.co.uk/docs/5/ergdocs/galdecision98.pdf](http://www.caa.co.uk/docs/5/ergdocs/galdecision98.pdf).

<sup>3</sup> CAA decision GH1/99 dated 6 July 1999 available at [www.caa.co.uk/docs/5/ergdocs/galdecision99.pdf](http://www.caa.co.uk/docs/5/ergdocs/galdecision99.pdf).

Future plans include making use of available spare capacity for airside ramp accommodation (subject to demand); the creation of more effective use of the Transfer Baggage facility at North Terminal currently owned and operated by British Airways and where utilisation is currently running at 20%; and enhancements to the South Terminal baggage system. GAL is currently discussing its capital investment programme with airlines, including improvements to the departures baggage system as well as further airside developments, as part of the process of constructive engagement.

*Since 1998 baggage has been emphasised as a product at Gatwick and is now actively managed with input from groundhandlers and airlines.*

14. GAL mentions a number of examples of an increased focus on baggage issues including: the creation of a Baggage Reliability Improvement Team; a baggage performance measurement system; dedicated GAL managers of baggage operations; monthly meetings with ground handlers; and a Baggage Steering Group. In GAL's view these developments would allow additional handlers to be assimilated into the current operation without significant cause for concern.

*There is significant change happening in the aviation industry in terms of new products and offers some of which have the effect of reducing the peak demand for departures baggage sortation capacity.*

15. GAL mentions in particular new check-in products such as its own "Day Before Check-In" which allows passengers to check in their hold baggage the evening before a morning departure. This reduces the morning peak period demand for check-in and departures baggage sortation capacity and makes more effective use of existing capacity (GAL is assuming a 15% take-up of this facility). Recent moves by low cost airlines to charge for hold baggage is also starting to have an impact on the volume of hold luggage that needs to be processed through the departures baggage sortation system. A recent report has identified a number of ways in which capacity could be improved through process optimisation and/or an increase in the number of baggage make-up positions.

*The recent airside groundhandling tender exercise at Gatwick came up with disappointing results.*

16. In 2005, GAL undertook a re-tendering of the handling licences that were due to expire in 2006. Eight parties expressed an interest but only four tenders were returned (from the existing four handlers). GAL believes there are a number of other handlers interested in providing services at the airport but the market restriction was making it difficult for new entrants. If there were no limitation, new entrants would be able to enter the market more readily by seeking to obtain airline contracts at any time rather than when the existing seven-year licences came up for renewal. GAL says it was disappointed that the four tenders did not give it sufficient confidence that service levels would improve (and claimed that the limitations had not led to improved service levels since 1998). GAL has therefore granted twelve-month licences to expire in March 2007. It believes the time is now right to liberalise the third-party groundhandling market at Gatwick in order to deliver the enhanced service benefits to airport users that liberalisation can bring.

*Since 1998 GAL has reviewed safety governance and has reinforced its already strong management of this issue.*

17. GAL states that it has undertaken a whole-scale review of its safety governance arrangements and implemented a number of significant changes resulting in greater emphasis on safety management at the airport. These include the creation of a Managing Responsibility Board (and sub-groups) with the aim of providing assurance to the GAL Board that best in class standards are achieved at Gatwick. There are also other fora where safety issues and concerns can be raised and addressed, including the Airside Safety Group which includes representation from GAL and all airside licence holders and provides a forum to discuss and promote airside operational safety matters.

*An open market is the overriding objective of the EU Directive on groundhandling.*

18. GAL noted that other airports in the UK had demonstrated that a liberalised approach to third party groundhandling can work. At Heathrow there were 13 handlers all of which undertook third party work in a market of 67m passengers per annum (67mppa). At Manchester the market was approximately 22mppa and there were 9 handlers, 6 of which were third party handlers and 3 self handlers. At Gatwick the total market was about 32mppa with the third party market currently about 26mppa.

### **CAA's Approach**

19. In making determinations (or varying or revoking determinations) the CAA is not bound by the statutory objectives in section 4 of the Civil Aviation Act 1982 or section 39 of the Airports Act 1986. Section 4 of the Civil Aviation Act is expressly disapplied by the Regulations and the duties set out in section 39 of the Airports Act are not relevant since the CAA is not performing functions under that Act. In the three ground handling cases that the CAA has considered previously it has therefore relied on the content of the Directive. The recitals to the Directive state that "opening up access to the ground handling market should help reduce the operating costs of airline companies and improve the quality of service provided to airport users" and is "consistent with the efficient operation of Community airports". At the same time the Directive recognises that "for certain categories of groundhandling services access to the market (and self handling) may come up against safety, security, capacity and available space constraints; whereas it is therefore necessary to be able to limit the number of authorized suppliers of such categories of groundhandling services." It is therefore against these criteria that the CAA should consider applications, whether for the imposition of limits or for their removal. In practice, the CAA has considered the two criteria in the Directive of capacity and available space jointly as these cannot be assessed independently of each other.

### **Preliminary assessment**

#### **(i) Safety**

20. Safety considerations were not part of GAL's case when it originally applied for the restriction at Gatwick and they were not a factor that the CAA weighed in its decision. The fact that there are no legal restrictions on the number of airside ground handlers at other UK airports also suggests that it is possible for safety to be properly managed at airports, both larger and smaller, without recourse to the provisions of the Directive. In any event, safety oversight by the Safety Regulation Group of the CAA and by the HSE will be maintained whether or not there is a restriction on the

number of handlers imposed by the CAA. GAL has also reviewed its safety governance arrangements as described in paragraph 17.

21. The CAA is therefore satisfied that considerations of safety would not point towards the maintenance of restrictions in the ground handling market at Gatwick.

(ii) Security

22. Considerations of security also did not form part of GAL's case when it originally applied for the restrictions, neither was security a factor that was in any way decisive in the CAA's determinations. Again, as there is no other UK airport with a legal restriction on the number of airside ground handlers the CAA is satisfied that airports have been able to manage the security aspects of ground handling without requiring the CAA's approval to statutory restrictions. Airport security is a matter for the Department of Transport and its regulatory oversight will continue.

23. The CAA is therefore satisfied that considerations of security would not point towards the maintenance of restrictions in the ground handling market at Gatwick.

(iii) Capacity and available space

24. In terms of capacity and available space, GAL has identified a number of developments since 1998 which, in its view, have helped to alleviate some of the constraints. These have both added to airport infrastructure and enabled the airport to make more effective use of the available space. These include the completion of Pier 6, the new South Terminal transfer baggage operation and the more extensive use of CUTE. For the future, the airport also has plans to make use of available spare capacity for airside ramp accommodation (subject to demand), to create more effective use of the North Terminal Transfer Baggage facility and to enhance the baggage system in the South Terminal. Given these current and future developments, it appears to the CAA from GAL's application that circumstances have changed significantly from those prevailing at Gatwick when the CAA first agreed to impose the restrictions the airport requested.

25. This evidence suggests to the CAA that considerations of capacity and available space no longer justify the maintenance of the present restrictions on the number of airside ground handlers at Gatwick.

**CAA Proposal**

26. In the absence of any clear arguments to the contrary at this stage the CAA is minded to accept the judgement of GAL, as the responsible operator of Gatwick Airport, that the current restrictions can be removed. The CAA proposes, therefore, to revoke the determinations made by the CAA in relation to Gatwick Airport in decision GH1/98 as varied by decision GH1/99.

**Civil Aviation Authority**  
**30 May 2006**