

CAA STATEMENT OF POLICIES ON ROUTE AND AIR TRANSPORT LICENSING

Part 1

GENERAL PRINCIPLES, OBJECTIVES AND APPROACH

1. The CAA's general objectives are set out in Section 4(1) of the Civil Aviation Act 1982, as amended by the Licensing of Air Carriers Regulations 1992, ("the Act") and its general duties in relation to air transport and route licensing functions are set out in Section 68 of the Act.

2. The CAA believes that the interests of users will be best served if airlines are free to operate air services in competition with one another according to their commercial judgement, subject only to the application of normal competition policy. To this end, it believes that the long term interests of users would be best served by a full liberalisation of international aviation markets, involving the removal of all bilateral restrictions so that the airline industry can compete on the same footing as other industries. The CAA will aim to make the UK's international aviation markets as contestable as possible by eliminating all unnecessary restrictions within its licensing and other regulatory processes.

Licensing policy

3. Consistent with its aim of making the UK's international aviation markets as contestable as possible, the CAA sees no good grounds for constraining competition through the licensing process. This points towards a fully liberal approach to the grant of licences to serve points outside the EU, just as now applies to routes within the EU. The CAA will therefore be prepared to grant global Route Licences for scheduled or charter services which permit the combination of any points world-wide.

4. Many international routes are subject to bilateral restrictions on designation, frequency or capacity which would prevent a British airline from exercising its licence freely. However, the CAA would not regard the absence of the necessary bilateral rights as good grounds for refusing to grant a licence application. If a problem of scarce bilateral capacity should arise as a consequence of the CAA granting an application, then this would be addressed through the Scarce Capacity Allocation Certificate procedures¹ specifically established to allocate such scarce rights.

Abuse of a Dominant Position

Anti-competitive behaviour

5. The CAA believes that allegations of anti-competitive behaviour are best addressed through the application of normal competition law. With the entry into force of the Competition Act 1998, UK competition law now applies to the UK aviation market, including routes to and from points outside the European Union.

¹ Set out in the CAA's Official Record Series 1.

6. However, in the event that the CAA is called upon to apply its regulatory powers to a case involving allegations of anti-competitive behaviour, it will adopt the principles of UK competition law. It will therefore seek first to establish whether the airline whose behaviour is the subject of the complaint is dominant in a relevant market. If so, it will then seek to establish whether its behaviour constitutes an abuse of that dominant position.

Tariffs

7. The CAA believes that the interests of users will be best served if airlines are free to set their own prices without regulatory intervention, subject only to the application of normal competition policy.

Part 2

OTHER POLICIES

Leasing of foreign-registered aircraft

8. The CAA believes that airlines should be free to choose the aircraft they employ and, subject to Article 8.3 of Council Regulation (EEC) 2407/92, will advocate a liberal policy when advising the Department for Transport on applications for the use of aircraft not registered in the United Kingdom. If, however, the applicant fails to demonstrate a genuine commercial requirement for the aircraft within its own operations the CAA will advise that the application would be more appropriately dealt with under the Department's policies on fifth freedom flights.

Part 3

APPLICATION OF POLICY

9. The CAA will reach its decisions on the basis of the facts and circumstances of each particular case. It may need occasionally to depart from its policies in unforeseen circumstances or where the Act requires.

Part 4

COMING INTO EFFECT

10. This Statement of Policies will take effect on 8 August 2008 and the Statement of Policies established by the CAA on 7 August 2007 will cease to have effect on the same day.