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28 November 2013

Dear Mr Gander,

Re: Investigation under section 41 of the Airports Act 1986 on the structure of airport charges levied by Heathrow Airport Limited

I write in response to your letter of 15 October 2013 regarding the above investigation and your October 2013 data and analysis paper (CAP 1121). This letter is Heathrow Airport Limited's (HAL) response to CAP 1121 data and analysis paper.

HAL notes the CAA's procedure and timelines for comment on representations of other parties and reserves the right to submit further evidence in light of those representations.

Modelling (paragraph 2.8)

As stated at the 27 January 2012 hearing on this matter it is not possible to model actual passenger use of terminals at Heathrow and as such a theoretical model was used to approximate use. It was further explained at the hearing that an equally approximate consideration, the experience of passengers as they move through the airport, was also taken in to account. HAL is fully supportive of the CAA's view that limitations of such modelling mean that it cannot be used to calculate the financial impacts of airport charges on particular airport users.

It is clear that HAL employed a theoretical model that had been used previously for a review of charges at the airport and during the 2010 consultation period a number of views were received on its use. Having account of those views, HAL took independent external expert advice on the use of the model which confirmed that the model was sound but was just one of many models that could be used to estimate passenger usage of the airport. In using that theoretical terminal model at no time did HAL seek to treat similar airport users differently or different airport users similarly in fact the primary purpose of the model was to gauge differences between airport users so that those differences could be properly reflected in the allocation charges.

There is no question that HAL had any intent to favour or disadvantage any particular user, or type of user, in reviewing the structure of its airport charges and further there is no evidence that any such impact resulted from the review. In the circumstances HAL believes that the CAA is not entitled to make a finding of unreasonable discrimination.

Cost Reflectiveness (paragraph 2.15)

HAL is supportive of the CAA's views on the limitations and impracticality of the "per airline" approach to airport charges. It was HAL's intention throughout the review process that any charges restructure would be lawful and non-discriminatory. Equally it was clearly indicated in the consultation document that the approach taken to cost allocation would be broad given the use of a theoretical model with the necessarily wide ranging variance that follows from the employment of such models. The CAA is therefore correct to discount the zero differential

assumption and conclude that some level of differential would have applied which did not constitute unreasonable discrimination.

Effect of Revised Charges (paragraph 2.25)

In HAL's earlier analysis of the cost differential a variance of 11% was not considered material in the wider context of charges given the broad approach taken in employing the theoretical model and the anticipated cost of administering charges on a "per airline" basis.

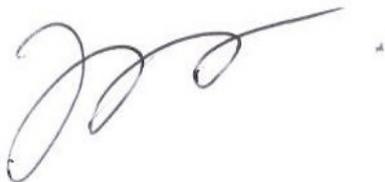
In HAL's view a higher variance may be wholly justifiable given that in the modelling space allocations were taken from the 2005 Heathrow departing passenger charge consultation reflecting terminal use as it was then rather than currently, space allocations were based on a theoretical new build terminal for either Domestic/ROI only, EU only or Non EU only passengers rather than an ROI only new build terminal and terminal assets were allocated pro rata to the theoretical space requirement per passenger.

Effect on Competition (paragraph 3.20)

HAL is generally supportive of the CAA's analysis and conclusions in respect of market assessment and effect on airline competition. In particular the conclusion that there is no evidence to show that carriers on domestic and ROI routes from Heathrow have been disadvantaged compared with carriers at other London airports is key to the conclusion that Aer Lingus has not suffered a competitive disadvantage as result of HAL's 2010 charges restructure.

Please do not hesitate to contact me directly if you have any questions or require any further clarifications.

Yours sincerely



James Jamison
Senior Counsel
Regulation and Competition