UNITED KINGDOM
CIVIL AVIATION AUTHORITY

DECISIONS ON AIR TRANSPORT LICENCES AND ROUTE LICENCES 1/99

Decision of the Authority on its proposal to vary licence 1B/10 held by British Airways Plc and licence 1B/35 held by Virgin Atlantic Airways Limited heard on 20 September 1999.

Panel

Chairman:	Mr D Andrew Mr C Senior
Adviser:	Mr D Batchelor
Secretary:	Mr G J Elsbury

Objections to the Authority's proposal:

Objector:	British Airways Plc represented by Mr C Allen, Head of Competition and Industry Affairs, British Airways Plc
Witness:	Mr D Noyes, Director Alliances and Franchises, British Airways Plc
Objector:	Virgin Atlantic Airways Ltd, represented by Mr C Haddon-Cave QC, Instructing Solicitor, Miss J Durham, Virgin Atlantic Airways Ltd
Witnesses:	Mr R Branson, Chairman, Virgin Atlantic Airways Ltd Dr B Humphreys, Director of External Affairs and Route Development, Virgin Atlantic Airways Ltd

SUMMARY

1. This hearing was convened to decide which of British Airways or Virgin Atlantic Airways should be allowed to operate a single additional weekly frequency available for UK airlines under the UK/South Africa bilateral air services agreement. From the winter 1999/2000 season British Airways wished to add a seventh weekly frequency between London and Cape Town while Virgin Atlantic Airways wished to commence services on the same route with one service a week. However, the UK/South Africa bilateral agreement currently restricts the weekly frequencies which UK airlines may operate so that only one additional weekly frequency remains available. The Authority has concluded that its decision should be based primarily on which of the two proposed services is likely to produce the greater benefits for users of air services. On the basis of the evidence put to it, the Authority has decided that Virgin Atlantic Airways' proposed service should be given preference over that of British Airways.

THE NOTICE

2. On 20 July 1999 the Secretary of State, in exercise of his powers under Regulation 3(5) of the Civil Aviation Authority Regulations 1991, gave notice to the Authority that in his opinion, by virtue of provision made by or under the terms of the Memorandum of Understanding concluded in Pretoria on 16 July 1999 between the Republic of South Africa and the United Kingdom, the United Kingdom's share of capacity on air transport services between the United Kingdom and the Republic of South Africa which may be provided by British airlines would, within 6 months of the date of that notice, be insufficient to enable British Airways plc and Virgin Atlantic Airways Ltd to make available all the capacity which they planned to provide. This notice was published in the Authority's Official Record Series 2 on 10 August 1999.

THE PROPOSAL

3. Following the notice from the Secretary of State, the Authority published its proposal to vary the licences of British Airways (1B/10/367) and Virgin Atlantic Airways (1B/35/145) in its Official Record Series 2 on 10 August 1999. After reciting the notice, this proposal stated that:

> "2. The Authority is advised by the Secretary of State that from the Winter 1999 season British Airways would like to operate an additional Cape Town service and Virgin Atlantic would like to enter the Cape Town route with a twice weekly service. Under the UK-South Africa bilateral arrangements UK airlines are currently permitted to operate a total of 26 services a week. BA currently operates 19, and Virgin 7, services a week between the UK and South Africa, thereby using all the available capacity. From the start of the Winter 1999 season, UK airlines will be permitted to operate 27 services a week. The single additional frequency which will become available is therefore insufficient to meet their planned expansion of operations.
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> "3. For these reasons, the Civil Aviation Authority, in exercise of its powers under Section 66 (2) of the Civil Aviation Act 1982, hereby proposes to vary route licence number 1B/10 held by BRITISH AIRWAYS PLC (BA) and route

licence number 1B/35 held by VIRGIN ATLANTIC AIRWAYS LIMITED (Virgin) so as to provide that the total number of flights operated between the UK and South Africa by BA and Virgin in any one week shall not exceed 27 in each direction. The maximum number of flights which may be operated by each airline will be determined by the Authority in the light of its statutory duties and objectives and the arguments advanced at the hearing."

OBJECTIONS AND REPRESENTATIONS

4. British Airways ("BA") exercised its right to be heard on the Authority's proposal to vary its licence 1B/10 and made a representation in respect of the proposal to vary Virgin Atlantic Airways' licence.

5. Virgin Atlantic Airways ("Virgin") exercised its right to be heard on the Authority's proposal to vary its licence 1B/35 and made a representation in respect of the proposal to vary British Airways' licence.

6. The Air Transport Users Council ("AUC") made a written representation on the Authority's proposal.

BRITISH AIRWAYS' CASE

7. This hearing was essentially a re-run of the hearing held in September 1998 to allocate a single additional weekly frequency to South Africa. In that case the Authority decided to allow BA to add a sixth weekly service to Cape Town in preference to allowing Virgin to commence services to Cape Town with a once a week operation. Last year South African Airways (SAA) had been operating five services a week to Cape Town. Since then SAA had added frequency and for this coming Winter it proposed to operate at least eight and possibly nine services a week. BA now faced significantly stronger competition on the route, and it was therefore more pressing than last year to allow a British airline to match the frequency of its foreign competitor. It also seemed probable that increases in the frequencies flown by South African airlines in the next twelve months would result in further frequencies becoming available to UK airlines. Even if the Authority found in BA's favour on this occasion, it was therefore likely that Virgin would have the opportunity to commence services to Cape Town in Winter 2000/2001.

8. The addition of a seventh service would represent the continuation of BA's investment in the South Africa market. BA had been steadily increasing its services to South Africa in recent years with the aim of establishing double daily services to Johannesburg and daily services to Cape Town. But this was a constrained market. Last Winter, BA had increased its capacity to Cape Town by 20% and SAA had increased frequency from three to five services a week, adding a sixth service in February. Despite this substantial increase in capacity on the route, BA's average seat factor over the Winter season had remained at 85%, the same as in the previous Winter season. In the peak months of February and March BA's average seat factor was in excess of 90%, suggesting significant turn-away of passengers on the peak days. BA's forward bookings for Winter 1999/2000, with a booked seat factor of 56% for the whole

season and 78% for November/December, suggested that it would again be operating at seat factors in excess of 90%.

9. BA planned to add a seventh service to Cape Town using B747-400 equipment with 401 seats, departing Heathrow at 1840 on Monday and returning from Cape Town at 2000 on Tuesday. It would thus fill in the one day of the week not currently served by BA, so resulting in a daily service. Cape Town was not solely a leisure destination. Some 26% of BA's traffic was currently travelling on business, and this proportion appeared to be growing. Premium class traffic was growing at double-digit levels. SAA had rightly identified that this market demanded a daily service, and BA would be at a significant disadvantage if limited to six services a week. The provision of daily services on long haul routes with sufficiently high volume to support them was also a substantial benefit to users. Although SAA was proposing to operate at least eight services a week in Winter 1999/2000, it did not presently hold a slot at Heathrow for a Monday arrival. In the absence of further change to SAA's slot holdings at Heathrow, therefore, BA's proposal offered the only means of guaranteeing users a daily service in Winter 1999/2000.

10. By summer 2001 BA would have taken delivery of long-range B777 aircraft with 259 seats, and its present plan was to use B777 aircraft on the Cape Town route in place of the B747 in the summer trough period only. It anticipated that this would result in approximately 30 fewer passengers being carried per flight than on its B747. It forecast that the additional Cape Town service would carry 20,700 passengers in 1999/2000 (Winter only), 33,647 in 2000/01 and 32,635 in 2001/02. The service would be profitable from the first year, growing from a net return of £2.6m in 1999/2000 to £8.5m in 2001/02.

11. BA's plan to reduce capacity on the route in the northern Summer trough period reflected changes in its competitive position in the market. Over the last few years, BA had been growing its business by increasing its transfer traffic at Heathrow. This had been profitable, but a number of factors, including the growth in direct services from continental Europe to South Africa and the strength of Sterling, had reduced the returns from carrying this traffic. About one-third of BA's traffic to Cape Town comprised leisure passengers connecting from outside the UK or South Africa. It was the additional costs incurred in carrying these low-yield passengers that BA would be seeking to avoid. There would however be no impact on UK passengers.

12. In accordance with its duties and policies, the Authority should conclude that finding in favour of BA would result in the better utilisation of the bilateral opportunity available to the UK. In particular its duty in Section 68 (1) of the Civil Aviation Act (the "Act") was to perform its route licensing functions in the manner which it considers is best calculated to ensure that British airlines compete as effectively as possible with other airlines. Any disadvantage which Virgin might face in operating less than daily against competition operating daily or greater frequency would apply no less forcefully to BA. The Authority's policy of promoting active competition both among British airlines and between British and foreign airlines also pointed towards BA. Virgin did not compete strongly on price, while there was clear evidence that BA had a consistent record of innovation and leadership in pricing initiatives in the UK/South Africa market.

13. The fact that Virgin proposed to operate a daylight service northbound was a further factor in BA's favour. As in last year's hearing, BA produced evidence that there

was a clear customer preference, particularly amongst time-sensitive passengers, for overnight services in this market.

VIRGIN ATLANTIC AIRWAYS' CASE

14. There were similarities between this case and Decision 3/98, but new and important factors now tipped the scales decisively in favour of Virgin. The essential basis of Decision 3/98 had been two-fold. The primary factor had been capacity. BA had been offering 57% greater capacity than Virgin and, in narrow short-term user interest terms, this was a powerful argument in favour of BA. Second, while the Authority had agreed that the entry of a third carrier to a route often resulted in price competition to the benefit of users, this effect would tend to be muted until the new entrant was able to mount a level of frequency at or close to that of the incumbents. Virgin submitted that in this case the position had materially changed in respect of both these points.

15. Virgin's plan was to operate a once-weekly service using B747-400 equipment. The aircraft would be configured with 48 seats in Upper Class, 22 in Premium Economy and 337 in Economy: a total of 407 seats. Since BA was also proposing to use a B747, there was no difference between them in terms of capacity to be offered, at least initially. However, since last year's hearing there had been a sea-change in BA's strategy. Its plans to reduce capacity on many routes would lead to a significant drop in the capacity to be made available for economy class passengers. On Cape Town, BA proposed to use B777 equipment in the northern summer season from 2001 onwards and Virgin also believed it possible that BA would in future extend use of the B777 to year round. This would result in BA putting approximately 40% less capacity into the market during the months in which it operated B777 aircraft. BA's own expressed intentions would thus prevent it from satisfying all substantial categories of demand on this route.

16. In Decision 3/98 the Authority had recognised the potential impact upon price competition of the entry of a third carrier to a route. This was qualified, however, by the importance of the new entrant being able to mount a level of frequency which was at or close to that of the incumbents. This case differed from the previous one in that it was now clear that the South African authorities would permit UK airlines to operate a further three frequencies a week from November 2000. This meant that Virgin would be able to accelerate to a reasonable level of frequency on this route within a year. This in turn gave immediacy to Virgin's desire to enter the route now. Allowing Virgin a foot in the door now would accelerate the point at which it was able to build quickly to a level of frequency not dissimilar to that of BA and so become an effective competitor.

17. Virgin's proposed schedule for Winter 1999/2000 was to depart Heathrow on Friday at 1700, arriving at Cape Town at 0700 the following day. The return flight would depart Cape Town at 0920 on Saturday arriving back at Heathrow at 1935 the same day. A unique feature of Virgin's proposal was that the daylight flight ex-Cape Town would provide passengers with an option not currently available. When additional frequencies became available to UK airlines, Virgin expected to be awarded most if not all of these frequencies in order to establish a major presence in the Cape Town market. It planned to operate four frequencies a week from November 2000 and six a week from November 2001. These plans assumed that A340 aircraft would be used

from November 2000, although B747 aircraft could be substituted if market growth was sufficiently strong or if BA or SAA reduced capacity.

18. Based on its plans to increase frequency on the route, Virgin forecast that it would carry 26,976 passengers in the first full year of operation, growing to 73,968 in year two and 114,088 in year three. This operation would incur a loss of £3.5m in the first year, £2.5m in the second year, but return a profit of £220,000 in the third year. Although it did not expect to be constrained to operating once a week for three years, Virgin also submitted a forecast for this scenario. In this case, passenger carryings in years two and three would be limited to 33,867 and 35,667 respectively. The second year loss would reduce to just under £1m, and a small profit of £9,000 would be earned. Virgin recognised that a single weekly frequency was not the ideal way to inaugurate a new route. It would, for example, incur higher unit costs than would be incurred if more frequencies were operated. However, this was a price which Virgin was prepared to pay in order to enter the Cape Town route. It did not influence the consumer benefits which a new Virgin service would generate.

19. BA did not need a seventh weekly frequency in order to be able to compete effectively with SAA. The Cape Town route was a cosy duopoly in which BA was the dominant partner, enjoying extremely high load factors. If matching a daily service by SAA was so important to BA, it did of course have the capability of switching one of its thirteen weekly Johannesburg services to Cape Town. In terms of the user benefits to be derived from a daily service, it was only a minority of business passengers, those wishing to travel non-stop on the one day of the week currently without a non-stop service, who would gain. The majority of the passengers on this route, who are travelling on leisure, were unlikely to receive any benefit from daily service. They would however enjoy substantial benefits from the additional competition which Virgin's entry to the route would bring.

20. Plainly, awarding a seventh weekly frequency to BA would only make it even more dominant. This would make it more difficult for Virgin to break into the Cape Town market in the future. Where the Authority was faced with a decision to allocate capacity between an incumbent and a potential new entrant, the strength of the incumbent must be taken into account. The greater the number of frequencies the incumbent has, the greater the reasons have to be to justify giving the incumbent even more frequencies and making it even stronger, rather than giving any to the new entrant. Requiring Virgin wait until BA achieves its desired level of frequency on a particular route would be an unfortunate precedent to set.

REPRESENTATION BY THE AIR TRANSPORT USERS COUNCIL

21. The AUC regretted that the restrictive bilateral air services agreement prevented BA and Virgin from mounting the capacity on the Cape Town route that they considered appropriate. It believed that the Authority's decision in this case should take account of both the immediate and long-term benefit to passengers on this route and elsewhere. BA's proposal would offer passengers a wider choice of day of travel and apparently better timing. These benefits outweighed the availability of Virgin's superior in-flight service. However, Virgin was proposing to match BA's capacity increase with a B747-400. This was a totally uneconomic proposal apparently put forward in order to win a foothold on this route. It did mean that Virgin would provide benefit to a large number of

passengers who might not otherwise have travelled and, in consequence, considerations of short-term benefit were decisively in favour of Virgin's application. A single service a week was hardly likely to constitute significant competition with BA and SAA. Nonetheless it was a start and considerations of longer-term benefit therefore also strongly favoured awarding the frequency to Virgin. On grounds of both long-term and short-term benefits to passengers, therefore, the AUC's view was that the additional frequency should go to Virgin.

ANALYSIS AND REASONS

Introduction

22. This is the second year running that the Authority has been required to allocate between BA and Virgin a single additional weekly frequency to South Africa. There was no disagreement between the two airlines that this market could support additional services. Indeed the fact that SAA is proposing to increase further the frequency of its own services to the UK demonstrates unequivocally the strength of present and future demand in this market. British and South African airlines operate in aggregate nearly seven flights a day in each direction carrying over one million passengers between the two countries. This is clearly a mature aviation market in which there should be no place for artificial restrictions placed by one side on the services provided by airlines of the other. The interests of passengers and the economies of the two countries lie in allowing airlines of both sides to freely exercise their commercial judgement as to how this market should be served. The consequence of the current restrictions is that capacity in the market is lower, and air fares therefore higher, than they would otherwise be.

23. Consistent with its duties under the Act, the Authority's prime concern in licensing cases is to further the reasonable interests of users. It sees active competition, both among British airlines and between British and foreign airlines, as the best available means of ensuring that users have the widest possible choice of products, services and airports, that quality of service is maintained and that fares are set at reasonable levels in relation to cost. It also sees competition as a powerful incentive to efficient operation and the sound allocation of resources. It believes that the interests of users are best met by the existence of a number of efficient and profitable British airlines strong enough to compete with each other and with foreign airlines, directly or indirectly, when the opportunity arises or can usefully be created.

Decision 3/98

24. The issues at this hearing were very similar to those which faced the Authority last year in Decision 3/98. The primary issue to be decided on that occasion was which of the two airlines' proposals offered users the greater benefit. The Authority did not regard the case as one where the structure of the UK industry was a significant issue. While it accepted that there were likely to be benefits arising from the introduction of competition from Virgin on the Cape Town route, the weight of evidence appeared to support the view that the greater user benefit would arise from allowing BA to add a sixth weekly frequency. This was due to the fact that BA was proposing to offer substantially greater capacity on its additional service than Virgin. The Authority could

not conclude that any user benefits arising from Virgin's entry to the route, particularly at very low frequency, would necessarily outweigh this factor.

Capacity and viability

25. The position in respect of the capacity proposed by the two airlines in this case is significantly different from that which faced the Authority last year. In the first year of operation, when both carriers are proposing to use B747 equipment, there is no material difference between the capacity which the two airlines plan to put into the market. In the event that no further capacity becomes available to UK airlines under the bilateral agreement, Virgin would maintain its B747 operation. If further frequencies become available, however, and Virgin is allowed to increase frequency, it anticipates operating year-round with A340 aircraft instead of B747s. Meanwhile, BA plans in any event to reduce its capacity on the route by substituting B777 aircraft for its B747s in the summer season only from summer 2001 onwards. There is clearly a degree of uncertainty as to the level of capacity which Virgin might provide on this route in the future, depending upon whether additional frequencies become available to UK airlines under the bilateral and whether Virgin is able to use them. But that is a matter for the future. The issue before the Authority here is how to allocate a single additional weekly frequency for use from Winter 1999/2000 onwards. In the short term, the Authority sees no reason to favour one carrier over the other on grounds of capacity. (After the hearing British Airways submitted evidence on the seating capacity of Virgin's proposed A340-600. This is not a material factor and has not been taken into account in reaching the Authority's decision.)

26. BA attempted at the hearing to challenge the forecasts which had been submitted by Virgin. In particular, it pointed out that the traffic forecasts submitted by Virgin for this hearing appeared considerably more optimistic than those it had submitted last year. It believed that Virgin's plan to operate a B747 was purely a response to the Authority's decision last year and that it was economically irrational. A profit of £9,000 at the end of the third year of operation was not an economic return to an efficient operator. It would be contrary to the Authority's duties under Section 4(1)(a) of the Act to award the frequency to Virgin on that basis. Virgin was confident that its forecasts were achievable and suggested that the reduction in yields that had taken place in the UK/South Africa market over the last year would generate significantly more passengers. Operating a single weekly frequency would indeed produce losses in the first two years but the fact that Virgin was prepared to accept losses demonstrated its commitment to the route. It did not believe that the Authority should be concerned about short term losses if there were associated consumer benefits.

27. The Authority finds the viability of competing bids for scarce capacity a difficult issue. As it stated in Decision 4/98 dealing with the Moscow route, it has some sympathy with the view that in cases such as this viability should be regarded primarily as a threshold. However, that case was concerned with two carriers each proposing to commence services on a new route. This is different in that one of the carriers is an incumbent while the other is a new entrant. Uncertainty about the future scope for Virgin to develop its presence on the route makes it difficult to ignore the substantial difference in profitability between the two proposals. However, it would be very unusual for a new entrant to be as profitable as an incumbent, particularly where the new entrant was operating at a low level of frequency relative to the incumbent. Operating at low frequency, particularly once a week, will carry both cost and yield penalties. Indeed if it

were likely that the frequency imbalance would be maintained for a lengthy period, it is unlikely that the new entrant would wish to commence services on the route. However in the Authority's experience it is rare for access to bilateral markets to be frozen for very long periods. In the case of the UK/South Africa market, history has shown that the frequencies available to UK airlines have grown over time and both parties indicated that they expected that this would continue. In these circumstances, the significance of short run differences in profitability is much diminished. It is appropriate for firms to take a medium term view, with the associated risks, and be willing to accept short term economic losses.

Schedules

28. The different schedules proposed by BA and Virgin give rise to two principal issues in user benefit terms. The first is the choice between a daily service on the one hand and a once weekly service operating on the same day as competing services on the other. There is no doubt that there are user benefits in allowing BA to operate a daily service, and that the principal beneficiaries would be business travellers who place a high value on their time. If SAA is unable to operate a daily service of its own, BA's proposal does indeed provide the only guarantee that users will have available a daily non-stop service to Cape Town. If and when SAA does operate a daily service, there will be benefits to users, albeit smaller, in enabling BA to match it and so compete on a similar footing. However, if neither BA nor SAA is able to offer a daily service, there will be second-best alternatives available to users in the form of one-stop services over Johannesburg. The Authority regrets that neither carrier submitted any evidence which attempted to quantify the benefits which users would derive from a daily service. On the arguments put to it, however, it is inclined to agree with Virgin that the net benefits to users of allowing BA to operate a daily service in these circumstances are likely to be relatively small, although not insignificant.

29. The second issue is the choice between the overnight service in both directions proposed by BA or the overnight southbound and daylight northbound service proposed by Virgin. As in last year's hearing, Virgin argued that its northbound daylight service provided a choice to passengers which did not currently exist and that it would be attractive to passengers due to the quality of its in-flight service. BA argued from its own experience when it had been forced by slot constraints to operate one daylight frequency in Summer 1997 that daylight services had proved less popular with passengers, particularly those in the premium cabins, and that it had had to drop prices to attract passengers. It also pointed out that there were currently no daylight services on the London/Johannesburg route, where frequency was of course much higher. Virgin said it could switch to operating overnight northbound but would suffer an implied loss of profit due to less economic use of the aircraft. The Authority does not see compelling reasons to favour one airline over the other on this specific point.

Competition and choice

30. The essence of Virgin's case was that allowing it to enter the Cape Town route would increase competition producing significant consumer benefits. The benefits flowing from its innovative pricing and high quality of service would far outweigh any benefits BA could produce by adding a frequency to its existing services. Virgin made some play at the hearing of the merits of its award-winning in-flight and ground services. The Authority does not doubt that Virgin offers a product of quality which is distinct from

that of BA. But it also regards BA's as a quality product. In order for relative quality of service to be a significant factor in the Authority's decision in a case such as this, it would need compelling evidence which demonstrated that users valued one airlines' service more highly than that of another. In any case, the issue of quality of service is integral to an overall assessment of net user benefit, and it is important to avoid double counting. The mere fact that an airline incurs substantial costs in order to provide additional in-flight or ground services says nothing about the value users attach to them. Having said that, one of the objectives behind the Authority's policy of fostering competition is widening the choice available to consumers. Allowing Virgin to enter the Cape Town route clearly would widen user choice, both in terms of quality of service and schedule.

31. BA countered Virgin's arguments on competition grounds by suggesting, as it did last year, that Virgin does not compete strongly on price and that it had been BA rather than Virgin which had been the principal instigator of price competition on the Johannesburg route. While Virgin's entry would provide users with a choice, it would only be at the expense of an alternative choice, namely that offered by a daily service. Virgin argued that BA's pricing activity on the Johannesburg route had been a response to its own entry to that route and produced evidence to that effect. Where each party is proposing capacity increments which are similar, albeit on different days, but which are small relative to the total market there are limits to the price innovation likely to result from the introduction of a new competitor. But the evidence suggests that a new entrant does increase price innovation.

32. As with the user benefits associated with a daily service, there was an absence of quantified evidence submitted by either party about the likely benefits to users of additional competition on the route. However, Virgin made an important point about the level of frequency operated by an incumbent in cases where a potential new entrant is seeking entry to a bilaterally constrained market. It seems to the Authority to be consistent with its Statement of Policies to say that the higher the frequency enjoyed by an incumbent, the stronger the reasons must be in favour of the incumbent for the Authority not to grant capacity to a new entrant. It should be noted that this is also consistent with the view expressed in the first scarce capacity case concerning Tokyo in 1991, when the Authority stated that its commitment to maintaining a multi-airline industry could not imply any presumption that smaller airlines would automatically be given preference over BA regardless of the merits or otherwise of doing so in individual cases. Whereas in Decision 3/98 the significant difference in proposed capacity provided a strong reason for favouring the incumbent over the new entrant, it is less clear that such a strong reason exists in this case and the weight of the argument tips toward favouring competition from a new entrant.

Conclusion

33. As in Decision 3/98, the primary issue to be decided in this case is which of BA's or Virgin's proposals will deliver the greater user benefit. Unlike last year's case, there is no single factor which clearly outweighs all others. At the heart of this case is the choice between allowing the incumbent, BA, to operate a daily service or allowing a new entrant, Virgin, to commence services on one day of the week when there are already competing services. The Authority finds this to be a finely balanced decision, particularly in the absence of quantified evidence from the parties of respective user benefits. There would clearly be benefits to passengers, particularly business travellers,

from allowing BA to operate a daily service. But there are alternatives, albeit inferior, available to these passengers on the least busy day and there will, at least by next summer, be a daily service provided by SAA. There would also be benefits to passengers from allowing Virgin to enter the route as a new competitor. In the absence of Virgin's entry it is less obvious that there is an alternative source of these benefits, at least until additional frequencies become available to UK airlines. While the Authority would hope that this will be sooner rather than later, there is no guarantee as to timing.

34. The Authority therefore concludes that, on balance, the reasonable interests of users will be better served by Virgin taking up the single additional frequency available to serve South Africa in preference to BA. This conclusion rests on an expectation that Virgin will deliver the service it has proposed in its case to the Authority. It is of course hoped that further opportunities for UK airlines to serve the UK/South Africa market will become available in the near future. However, should these opportunities not materialise, then any significant delay in the implementation of Virgin's plans to take up the additional frequency might be regarded as grounds for the Authority to reach a different conclusion.

DECISION

35. In accordance with its proposal, the Authority hereby varies the route licence number 1B/10 held by British Airways Plc by adding the following condition:

> "British Airways shall not operate more than 19 flights a week in each direction between the UK and South Africa for so long as the total number of flights which may be operated between the UK and South Africa by UK airlines in any one week is limited to 27 in each direction."

36. In accordance with its proposal, the Authority hereby varies the route licence number 1B/35 held by Virgin Atlantic Airways Ltd by deleting the following condition:

> "Virgin Atlantic Airways shall not operate more than 7 flights a week in each direction between the UK and South Africa for so long as the total number of flights which may be operated between the UK and South Africa by UK airlines in any one week is limited to 26 in each direction."

37. In its place, the Authority hereby substitutes the following condition:

> "Virgin Atlantic Airways shall not operate more than 8 flights a week in each direction between the UK and South Africa for so long as the total number of flights which may be operated between the UK and South Africa by UK airlines in any one week is limited to 27 in each direction."

38. For the purposes of any appeal which may be made against this decision the 'decision date' (see Regulations 26(8)(a) and 27(4) of the Civil Aviation Authority Regulations 1991, as amended by the Licensing of Air Carriers Regulations 1992) is 6 October 1999.

G J Elsbury
For the Civil Aviation Authority
1 October 1999