

**easyJet's response to the CAA's Minded to Consultation on Market Power on Stansted Airport**

1. easyJet welcomes the opportunity to respond to the CAA's Minded to Consultation on Market Power at Stansted Airport and would particularly like to comment on aspects of the analysis which are directly relevant to our business and on which we can provide the CAA with more clarity.
2. easyJet is the second largest airline at Stansted and has eight aircraft based at the airport. We currently offer flights to 22 destinations from Stansted and continue to launch new routes from the base as demonstrated by the launch of services to Bulgaria, Morocco and Egypt in February 2013.
3. Our response to each test within the market power assessment is set out below. In summary, easyJet supports the CAA's analysis that the market power test was met in relation to Stansted airport and that this justified continued economic regulation of the airport.
4. easyJet notes that Stansted is under new ownership. It is unclear whether the new owners of Stansted will take the same approach as BAA. easyJet is seeking to negotiate a long-term commercial agreement with MAG, as it did (without success) with BAA. easyJet should be able to provide evidence on the success of this effort in the coming months.

**Conclusions on Test A**

**Market Definition**

5. In response to the CAA's view on product market definition, we believe that the relevant market is the market for core aeronautical services for passenger airlines. We believe that if the CAA is going to define markets in the context of business models it should focus on the difference between network carriers and point to point carriers, rather than low-cost and charter carriers. This would appear to be the critical distinction for the demand placed on airports (e.g. the need for transfer passenger services).
6. On the geographic market definition, we welcome the CAA's view that the market is narrower than that suggested by the CAA in its Initial Views. We also welcome the CAA's approach which recognises the significance of assessing not only passenger behaviour and preferences but also airlines' ability to switch away from Stansted.
7. We note that the geographic market definition remains inconsistent with the product market, as the product market is defined in the context of airlines, but the geographic market in the context of passengers. However, by recognising the interaction between airline and passenger decisions the CAA has made considerable progress in understanding the complexity of defining the boundaries of the geographic market.

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8. In terms of passenger switching, the CAA is familiar with the analysis conducted by Frontier Economics on behalf of easyJet<sup>1</sup> and therefore we see no reason to repeat the analysis here apart from reiterating that the evidence shows that passengers have a strong preference for travelling from their closest airport, which they are willing to pay for, and that the geographic market (as the CAA has defined it) in relation to Stansted Airport is very localised in the East of England.
9. In terms of airline switching, we note that the CAA considers easyJet's opening of a base in Southend in 2012 as relevant in this analysis as a possible indicator that the geographic market for Stansted includes Southend.
10. easyJet launched its base at London Southend on 2 April 2012 and currently has three aircraft at the airport, with a fourth planned to arrive in June 2013. We currently operate 15 routes from the base. We believe that the move in and of itself is not enough to draw any conclusions on whether the geographic market for Stansted includes Southend.
11. Firstly, we note that of the 15 routes offered at Southend, more than half are overlapping with Stansted. We have previously made the point to the CAA that easyJet will offer popular routes at alternative airports to address unmet demand and satisfy passengers desire to use their local airport. The use of multiple bases is to provide complementary offerings which reflect passenger sensitivities to travel times to an airport.
12. Secondly, any conclusions on the potential for material switching to occur would depend on an analysis of the impact on passenger numbers resulting from such a move and the ability for easyJet to increase the number of aircraft based Southend while offering the same routes.

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14. On the second point, in relation to assessing the ability for easyJet to add additional aircraft at Southend and offer the same routes as those at Stansted, it is essential to consider the feasibility of operating these routes from Southend and the capacity at Southend to accommodate more based aircraft.
15. We note that the runway length at Southend limits the non-stop range of aircraft which can operate from the airport, restricting flight times to less than three hours. This prevents flights to destinations such as southern Italy, Greece, the eastern Mediterranean and the Canary Islands

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<sup>1</sup> Frontier Economics – The De-designation of Stansted Airport, October 2007

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(e.g. routes such as Bodrum, Dalaman, Marrakech and Sharm El Sheikh which currently operate from Stansted).

16. Furthermore, we note that Southend airport does not have the capacity to substantially increase the number of based aircraft there, reducing the potential for material switching to occur by Stansted-based operators.

### **Competitive Constraints**

17. The CAA has rightly recognised the potential for strategic constraints and capacity constraints to limit the ability of airlines to constrain Stansted's behaviour.
18. In analysing countervailing buyer power, the CAA points to easyJet's presence at several London airports (Gatwick, Luton and Southend) as an indication that easyJet holds a degree of countervailing buyer power against Stansted. We disagree with this view since the ability to move further aircraft from Stansted is dependent on sufficient capacity being available at other London airports to accommodate any move and passengers being willing to follow such a move. As the CAA has recognised, the scope for switching between London airports is limited and evidence suggests that given the size of the catchments of the London airports there is limited scope for passenger switching as well (for example from the Gatwick catchment to Stansted and vice versa) on thick routes.
19. Furthermore, we draw the CAA's attention to the Competition Commission conclusions in its July 2011 report on its consideration of possible material changes of circumstances in the BAA Market Investigation<sup>2</sup> which examined the very issue of whether Southend was a possible competitive constraint on Stansted. The CC found that "whilst Southend will impose some modest competitive constraint on Stansted, we consider that Southend is unlikely to impose a significant or long-term risk to Stansted".

### **Market Power**

20. In view of the congestion within the London area, the scope for meaningful competition to develop within the London area is limited. We note that Stansted has demonstrated over recent years that it can keep prices high, despite a loss in passenger numbers, in the knowledge that other London airports are capacity constrained and are therefore not likely to reduce prices.
21. While we acknowledge that conditions for substitution may change over time, we do not believe that easyJet's Southend base significantly changes the analysis of competitive constraints for the reasons set out above.

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<sup>2</sup> Competition Commission's BAA Market Investigation: Report on Consideration of possible material changes of circumstances, 19 July 2011

**Conclusions on Test B**

22. We support the CAA's provisional conclusion that the use of economic regulation is warranted.
23. Where effective competition is unlikely to develop, then ex ante regulation is warranted and is consistent with the CAA's role of protecting the passenger. Without regulation, the CAA would not be able to prevent excessive returns and protect passengers from unreasonably high prices.
24. Although competition law exists to address any abuses of dominance such as excessive pricing and discrimination which may occur, it is not the correct tool where timely intervention is required. easyJet supports the CAA's view that ex post competition powers are too slow, and the outcomes too uncertain, to be relied upon for addressing competition concerns.
25. easyJet therefore believes that where airports have market power, economic regulation is the only effective solution to protect passengers from higher prices and poor service.

**Conclusions on Test C**

26. We support the CAA's analysis that based on this some form of licence regulation should apply to Stansted. Where an airport has market power, it follows that it should be subject to some form of economic regulation which is proportionate to the level of harm.
27. We note that the CAA has found evidence to suggest that Stansted is pricing above the competitive level.
28. While we recognise the distortions associated with a RAB-based model, and that these are particularly significant at Stansted, we strongly believe that a licence regime can deliver the right outcomes in relation to price, efficiency and service quality by addressing concerns about excessive pricing, discrimination, performance and levels of service.

easyJet  
24<sup>th</sup> May 2013