

Tim,

I thought it would be helpful to write to set out VAA's initial views on GAL's revised 'Commitment' terms set out in their letter to Andrew Haines of the 20th August, which we received on the 21st August.

Whilst we recognise the changes GAL have made to their proposed terms, VAA does not believe that the modifications GAL has made to the terms of the proposed Commitments go far enough to remedy the risk of the airport exercising its significant market power to the detriment of passengers.

In particular, our major areas of concern remain unchanged from our previous response (7th August) to the CAA's consultation. In summary that:

- GAL's proposed price remains too high compared to expectations of a fair price and even above the CAA's initial proposals;
- Allowing uncapped premium charges to be imposed by GAL could incentivise the airport to degrade services that we take as standard today to the minimum and to introduce new charges to maintain them at existing levels;
- There are considerable risks to the out turn price to be paid by airlines caused by the CRD, any second runway proposal, ancillary service charges and premium service charges. Because of these risks, we would expect the Commitments price to be substantially lower than the equivalent RAB price;
- The pricing principles that will be used by GAL do not form part of the Commitments and are subject to change. It is not clear what protections there are to stop the airport exercising its market power for example by unreasonably discriminating between airlines or categories of flights;
- VAA considers that GAL's ability to change the terms of the Commitments needs to be more tightly constrained, in particular, the proposed increase from 51% to 67% of airlines is not sufficient. This should be much higher - airlines in favour responding in writing needs to be 90% (and in addition, airlines in favour representing 90% of passengers);
- VAA believes there are significant weaknesses with the service quality regime proposed and if Commitments are to be workable, a more commercial, focussed and output based regime needs to be enforced. In particular, with neither Commitments to deliver particular capital projects, nor a strong service quality regime, there is a significant risk that GAL would delay necessary investment or refuse to make investments unless airlines agreed to further price increases;
- The airlines still remain in the Commitments proposal "the insurer of last resort". In a standard commercial relationship, the supplier would have a contractual liability for direct costs incurred by the customer through supplier under performance or negligent actions;
- We continue to disagree with the airport and believe that a regulatory licence back-stop would be required.

- VAA continues to believe that Gatwick meets the market power test and holds significant market power. Therefore, in our view the Commitments as they stand do not provide sufficient protection against the airports abuse of its dominant position.

Given these significant areas of concern, and particularly in the best interests of the CAA's primary duty to present and future passengers, we believe that further modifications need to be made to the Contracts and Commitments prior to the CAA adopting any such framework.

Happy to discuss further if helpful.

Best,
Amelia

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