

LONDON FIRST SUBMISSION TO THE CAA – 4 NOVEMBER 2013

Response to the consultation on final proposals for economic regulation at Gatwick

1. We welcome the chance to put our views to the CAA as it finalises the appropriate regulatory framework for Gatwick. Our brief comments can be read in the context of our [submission](#) to the Airports Commission earlier this year, in which we argued for policy and regulatory change to grow London's international air links. Our rivals in Europe and elsewhere are securing new air links to high-growth markets while expanding established trade routes. The risk facing London and the UK is that businesses in growing economies, and the airlines that serve them, will make investment decisions over their European and international locations, and their flight patterns and primary airports, that will be difficult, if not impossible, to reverse. In the absence of new runways serving London in the next decade, we believe change is required to mitigate this risk. Additional flights should be facilitated where the market wants them through the more intensive use of current assets. This is no substitute for a long term strategy to deliver new runway capacity but, in the absence of that strategy, we see no choice. Policy drift will lead to the erosion of London and the UK's competitiveness.
2. We have argued that Gatwick and Stansted could, with greater regulatory freedom, extend the use of their spare capacity at a faster pace. We have seen innovation at Gatwick and a demonstrable willingness to change, with a greater focus on the passenger experience. Stansted's new owners are following suit, confirming the logic of the Competition Commission's recommendation that BAA's common ownership of London's airports be ended. In that context, we make three brief comments on the CAA's proposals for Gatwick.
3. First, we welcome the CAA's response over the past year to changing market circumstances. The CAA recognises that airlines and passengers at Gatwick are more diverse than at other airports subject to economic regulation, and that Gatwick's commitments may therefore deliver greater flexibility and more benefits than a licence. It acknowledges that a combination of commitments and bilateral contracts could give protection against potential market power abuse. And it believes that contracts and commitments would offer the airport and airlines greater incentives to outperform and grow traffic; avoid the direct costs and management distraction associated with a regulatory review; and remove some of the perverse incentives that can occur under RAB-based regulation. The airport and airlines should be given every opportunity to increase choice and value for passengers, rather than turn first to the regulator for arbitration or resolution.
4. Second, we remain of the view the CAA has not met the burden of proof required to impose a licence on Gatwick.¹ However, should a licence be imposed,² we would like the CAA explicitly to set a glide path for deregulation. It should guard against additions and modifications to the licence which risk accumulating over time and entrenching a reliance on the regulator over commercial settlement. It should consider extending the date of its formal review of Gatwick's commitments beyond 2016, given that a period of a little over two years may encourage parties to maintain the status quo. And at the same time, it

¹ Under all three parts of the Market Power Test set by the new Act.

² On the basis of its concerns over the enforceability of the Gatwick's commitments.

should keep open the option to remove the licence sooner, should changes in the market justify it. We continue to believe the CAA has powerful backstop powers now and that if it sees evidence of market abuse it could conduct a market power test and re-impose a licence in under a year if necessary.

5. Third, we welcome the onus the CAA has placed on Gatwick to deliver the promise of its contracts and commitments. Gatwick's success in establishing workable commitments and bilateral contracts that spur innovation and growth should signal the CAA's willingness to step back. Our argument is that if London is to attract new, particularly long-haul, services and be open to innovation, London's airports with capacity should have the commercial flexibility to invest and price as they believe will best support growth, rather than simply gain the approval of existing customers and the regulator. Gatwick should now take the opportunity to demonstrate that the dynamic effects of competition, rather than regulation and planning, will over time bring much greater benefits to consumers in terms of quality and price.