

easyJet response to the CAA consultation on Market Power Test Guidance

Introduction

easyJet is the UK's largest airline. It is also the largest operator at Gatwick, one of the two airports that the CAA currently views as having significant market power. Consequently we, and our passengers, have an important stake in the CAA's approach to assessing airport market power.

Summary

easyJet supports the outline approach to market power tests set out in the guidance. Indeed it is helpful that the CAA has set out a clear statement on how it will apply market power tests in the future.

We note that the guidance reflects an approach that has already been applied to Heathrow, Gatwick and Manchester. While we did not necessarily agree with every aspect of these assessments, we did support the overall approach and framework.

We note that this consultation is on the broad approach of a market power test, and not the specific detail of factors that may determine in a specific set of circumstances whether or not an airport has market power. Consequently we have not responded on any detailed issues around the determinants of market power itself.

Our support for the guidance should not be read as automatic support for any future CAA decisions take in accordance with this guidance.

Detailed comments on the draft guidance

3.3 We note the CAA is not required to make a market power determination for an airport with less than 5 million passengers. However, it would be helpful if the guidance set out that the CAA would be willing to look at making a determination at an airport with fewer than 5 million passengers if there is the potential for significant harm to passengers.

3.9 The draft guidance states that it will take up to six months for the CAA to respond to a request for it to undertake a market power determination. We recognise that this decision may not be simple and require analysis. However, in other cases an assessment may be relatively simple. It would be helpful if the CAA stated that it would aim to progress a decision in as quick a time frame as possible within the six months.

4.9 We agree that an assessment of whether an airport may have significant market power in the future is relevant to Test A (whether an airport has or is likely to acquire significant market power). However, the guidance provides no description of how the CAA would determine which future time period is relevant. While we do not expect the CAA to provide a specific time estimate, it would be helpful if it described how it will determine

which future is relevant. For example the CAA could consider as a starting point that the 'future' is the period over which an economic licence might reasonably be expected to apply.

4.23 to 4.26 The guidance notes that determining what a competitive price is for an economically regulated airport is an important issue in attempting to carry out the hypothetical monopolist test. This is factually correct. However, the guidance goes on to discuss the extent to which the regulated price may or may not be competitive price. This is a debate about the determinants of market power itself, not the guidance framework. For example, the guidance simply notes that airline and passenger switching is a relevant factor in considering market definition. It does not go into any detail on the complexities of this analysis. We suggest that the discussion of competitive prices is removed, and instead the guidance simply notes that this is a relevant factor.

5.6 We agree that the CAA's duty is to the users of air transport services, in particular for an airline like easyJet; passengers. We note that the guidance reflects the role of airlines as the purchasers of airport services, and also as potentially being effected by any abuses of significant market power.

easyJet

February 2016