



Agenda Item:	Reference: HACC.478
Date: January 28 2007	
Office of Fair Trading – UK Airports Consultation	

Report by the Technical Adviser

BACKGROUND

1. The HACCC has received a copy of a consultation document issued by the Office of Fair Trading (OFT) in December 2006, which poses the question of whether the present structure of airport ownership in the United Kingdom is in the public interest and whether the matter should be referred to the Competition Commission.
2. The OFT had announced on 30 June 2006, that it was considering whether competition between airports was being hindered by the structure of airport ownership in the UK. The OFT is empowered to make a reference to the Competition Commission (CC) where it has reasonable grounds for suspecting that any feature, or combination of features, of a market in the UK for goods or services prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the UK.
3. Having considered the results of its study, OFT believes that there are sufficient grounds to justify it in referring the supply of airport services by BAA within the UK, to the Competition Commission for a market investigation. The consultation paper sets out the reasons for this and, as it is required to do so far as reasonably practicable, is consulting with any person on whose interests the reference is likely to have a substantial impact.
4. Members will, no doubt, be aware from extensive Press and television coverage that a major conclusion of the OFT consultation is that a breakup of the present ownership of the three main London airports of Heathrow, Gatwick and Stansted, together with questions about Southampton as well as the three BAA Scottish airports of Aberdeen, Glasgow and Edinburgh, should be further investigated by the Competition Commission.
5. Responses to the consultation document are invited by February 8 and, since this is only one day after the consultation is to be debated by the HACCC, OFT has been asked for an extension of time.
6. This report summarises the contents of this 143 page document, suggests some of the main points of it which are likely to be of interest to Members, it invites Members to contribute to the debate on the OFT's findings and to the response which should be made in support, or opposition, to a reference being made to the Competition Commission.
7. The Executive Summary of the OFT document is at Annex A to this report.
8. Annex B summarises the contents of the consultation and highlights some points of particular interest relating to Heathrow Airport which should assist Members in considering the Committee's response.

THE BAA RESPONSE

9. BAA issued a statement in which Stephen Nelson, Chief Executive of BAA Plc, said "It is right that BAA's ownership is subject to regular scrutiny but we believe that BAA's structure has benefited both passengers and airlines and BAA has not abused its monopoly" He went on to point out that the main issue was a lack of terminal and runway capacity in the South East which was a result of the UK's complex planning laws, an antiquated regulatory system and inflexible slot allocation.

COMMENTS

10. OFT acknowledges the purchase of BAA by a consortium since its announcement in June , part of which, Ferrovial Infraestructuras S.A. also owns Bristol and Belfast City airports. None of the OFT findings refer to those airports.
11. The study considered whether it would be practicable for BAA Plc to part with any of its runways or terminal buildings. It accepted that there would be real difficulties in separating ownership of runways although theoretically possible. Regarding the disposal of terminal infrastructure, OFT is keeping its options open not having been persuaded by arguments about practicability in view of the capacity problems in the South East and the need for co-ordinated control within an airport.
12. In considering the question of disposal of terminals, OFT appears to be unaware of examples where this has been tried elsewhere in the world, notably at Toronto International Airport, and found to be impracticable.
13. Although OFT notes a number of the constraints on airport development and operation, there is an air of unreality through the document in ignoring some of the very real influences involved. There is no reflection of the environmental challenges involved and of the influences on affected communities together with the need for significant resources to meet blight and compensation bills; nothing about surface access which Government expects airport operators to pay for. No recognition of the considerable costs involved if airlines were to have to set up operating bases at the competing airports which are envisaged.
14. These are but some of the influences which should be taken into account to add to those to which attention is drawn in Annexure B.
15. For many years the HACC took the view that the BAA London airports should remain together as one system to make the best use of available capacity but this was questioned by airline representatives at the HACC meeting on 6 December. Any breakup of the system would have extremely wide consequences in financing terms, making use of that scarce resource of capacity, provision of necessary infrastructure and uncertainties about relationships with stakeholders.
16. OFT does point out that it is empowered to accept undertakings from BAA Plc if they are considered satisfactory, rather than to make a reference to the Competition Commission. It is not known at this time of writing if BAA intends to offer any such undertakings.

CONCLUSIONS

17. BAA may avoid reference of this matter to the Competition Commission if it offers undertakings satisfactory to the Office of Fair Trading. In the event of that happening, the Committee would wish to have an opportunity of considering whether the undertakings are appropriate before they are accepted.

In the event that a reference is made to the Commission, the Committee would expect the Commission to consider those implications about which this report has drawn attention and to then consult with the HACC on its findings before it makes a decision in the matter.

RECOMMENDATION

That the Office of Fair Trading be advised of the Committee's views as set out in this Report