OFFICE OF FAIR TRADING

UK airports

30 June 2006

Summary

1 On 25 May 2006 the Office of Fair Trading (OFT) announced it was considering a market study of UK airports.[1] Since that time the OFT has reviewed the issues involved and has consulted the Civil Aviation Authority (CAA). It has also held briefing meetings with relevant parts of government including the Department for Transport (DfT). After conducting initial internal research, the OFT has decided to launch a market study into UK airports. This study is being carried out with a view to deciding whether or not to make a market investigation reference to the Competition Commission (CC).[2]

2 This document lays out why UK airports meet the criteria for launching a study, the focus of the study and the timescales of the study.

Why the OFT is conducting a market study

3 The OFT's market studies guidelines list five criteria used in selecting market studies.[3] Having considered the current situation within UK airports the main factors which have influenced our decision to proceed to a market study are:

- *The importance of airports to UK productivity and consumers.* UK airports had an estimated turnover of £2.56 billion in 2004[4] and are an important part of the wider aviation industry, which had an estimated turnover of £13.58 billion.[5] These figures are likely to significantly underestimate the

[1] Available at: www.oft.gov.uk/News/Press+releases/2006/91-06.htm
[2] A reference to the CC is not the only possible outcome of an OFT study, see Office of Fair Trading, *Market Investigation References: Guidance about the making of references under Part 4 of the Enterprise Act*, March 2006, paragraph 2.19.
[3] Office of Fair Trading, *Market studies: Guidance on the OFT approach*, 2004.
[4] Key Note Market Report, *Airports*, 2005.
[5] Mintel, *Airlines, Leisure Intelligence*, June 2005.

value of airports given the importance of air links to the UK's economic activity and productivity[6].

- *The high local market shares of BAA and Manchester Airport*. BAA's airports'[7] share of passenger flights has remained very large.[8] Barriers to entry and expansion are high due to planning constraints. Manchester Airport, the only non-BAA designated airport[9] holds a large market share within the North of England.[10]

- *The need for significant investment in new airport infrastructure*. The government has presented a White Paper on airport expansion in the UK which identifies strong predicted growth in demand. The incentives to invest in airports are likely to be influenced by regulation, competitive pressures and planning restrictions.

- *The potential for identifying remedies to any competition concerns we find.* At this stage we consider possible remedies could include recommendations on improving economic regulation and, following any market investigation reference to the CC, divestment of airports, airport runways or terminals.

- *The OFT is best placed to undertake this study*. Under the Enterprise Act (EA02) only the OFT has the powers to refer UK airports to the CC for a market investigation.[11] The EA02 allows for a more broad consideration than is possible under sector-specific regulation (ie the Airports Act).

The scope and focus of the study

4 The OFT's role is not to engage in an in-depth investigation of all features of UK airports and we intend to focus on the main competition issues. It appears in this

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[6] For example a study for the Department of Transport noted 'Air transport has had a key role in facilitating globalisation, through reducing travel times and cost and increasing accessibility to markets and supply chains.', within *The Importance of Transport in Business' Location Decisions*, January 2004.

[7] These BAA owned airports are Heathrow, Gatwick, Stansted, Glasgow, Edinburgh, Aberdeen and Southampton.

[8] Over the whole of the UK their share of passengers was 63 per cent in 2005, down from 72 per cent in 1990. Among airports serving London, BAA's share has been stable (92 per cent in 2005; 95 per cent in 1990). In Scotland, its share was 86 per cent in 2005, down from 93 per cent in 1990 largely due to increased competition from Prestwick.

[9] In 1986 the Secretary of State for Transport designated Manchester, Heathrow, Gatwick and Stansted Airports to be subject to price regulation.

[10] Manchester Airport's share of passengers across the North of England is approximately 60 per cent.

[11] Other than the limited circumstances in which a ministerial reference can be made under section 132 of the EA02.

case the joint ownership of several major UK airports by BAA, and Manchester Airport's large market share, are key considerations. We will also consider how the economic regulation of airports and the capacity constraints on airports serving London may limit the scope to make competition effective.

5 The initial focus of the study is described below. This is indicative: we do not exclude the possibility of other issues being considered as a result of evidence presented to the OFT during the course of the study.

The focus of the study

6 The OFT intends to examine the scope for benefits to arise from enhanced competition between airports (eg via divestment of airports) or from enhanced competition within airports (eg via divestment or long term lease of terminals or runways within an airport).

7 In examining these issues we will be considering the potential for greater competition between airports or terminals, the potential benefits of enhanced competition both in the short term (such as through quality, service and price) and in the longer term (such as through greater incentives to invest in capacity). We will also look at the constraints which may limit increased competition, such as short-term capacity constraints, longer-term planning restrictions, price regulation and the restrictions on trading of landing/take-off slots at airports.

Geographic scope

8 The areas of the UK which, on a *prima facia* basis, have most potential for greater competition are those where a single airport (with multiple terminals) or jointly-owned airports handle a large proportion of air passengers within that region. Because of this the geographic scope of the study is likely to be on the South East of England and Scotland where BAA's airports represent a large proportion of air travellers and the North of England where Manchester Airport has a strong position. The study may determine that the relevant geographic considerations are wider or narrower than this.

Issues that are outside the OFT's focus or remit

9 The DfT, working within EU legislation, balances the environmental, economic, safety and security considerations of UK airports. The DfT is also responsible for the international aviation treaties to which the UK is a signatory. The CAA regulates aviation economics, airspace policy, safety and consumer protection.

10 The OFT would like to make it clear at this stage that our considerations and expertise are narrowly focused on promoting competitive markets which benefit air travellers. We are required to take as given the constraints on the market resulting e.g. from the need for security, air safety, and environmental directives and legislation. In this study issues such as planning permission or environmental impact will only be considered in so far as they affect competition. If we conclude that a market investigation reference to the CC is appropriate, under Section 131 of the Enterprise Act 2002 (EA02) our remit will be restricted to considering the extent to which any feature or a combination of features, of a market in the United Kingdom for goods or services prevents, restricts or distorts competition.

Timetable and process of the market study

Indicative timescale

11 Given the possibility of a more detailed investigation by the CC following referral, the OFT does not wish to prolong this study unduly. The OFT study's objective is to determine whether further comprehensive investigation is merited.

12 The OFT currently intends to publish the findings of the study in late 2006. If we find that a market investigation reference is warranted, a reference to the CC could be made, following consultation. Our market investigation reference guidelines[12] lay out the duties of the OFT in this respect.

Contacting the OFT

13 Given the limit to the resources and time available to the OFT and the OFT's decision to carry out only a short study at this time, the OFT will not be contacting all potentially interested parties. We will be directly contacting specific bodies to obtain evidence we believe necessary to reach a conclusion on what course of action the OFT should adopt.

14 However, the OFT welcomes relevant submissions on this topic and submissions should be sent to:

Airport study (6th Floor)
Fleetbank House
2-6 Salisbury Square
London EC4Y 8JX

[12] Ibid 2.

15 Or can be emailed to: airports.study@oft.gsi.gov.uk

16 It would assist the case team if submissions are laid out as:

- A summary of the main points you would like the OFT to consider.
- A more detailed explanation of these points.
- Evidence to support the views being made:
  - if this includes data or financial figures, precise definitions, the dates and source of the data should be provided
  - if this includes detailed calculations, an annexe or spreadsheet which allows the OFT to replicate these calculations should be provided.
  - if this includes specific examples of events, a chronology and background to the events should be provided
  - if this includes comparators, the reasons why you consider the comparator to be appropriate should be provided
  - if you are willing to answer questions further to your submission, a named point of contact and contact details including telephone number, whom the case team can contact should be provided.
- Please clearly indicate which (if any) specific parts of the submission are confidential and should not be made publicly available.
- If the submission is representing a business:
  - the company name and ultimate ownership
  - a brief summary of the activities of the company
  - if the company is a customer of UK airports, details of the airports and facilities used, and the amount spent in the last financial year at each airport
  - details of any other interests in airports either in the UK or abroad as a supplier, owner, customer or business partner.

17 The OFT recognises that it is not always the case that evidence is available to companies to support their views. Companies may be able to suggest information the OFT should seek out. However, the OFT may not be in a position to pursue all avenues of study. Where no evidence is provided, the weight the OFT can place on the views is lower than where evidence is provided.

18 The deadline for comments is Friday 18 August 2006.