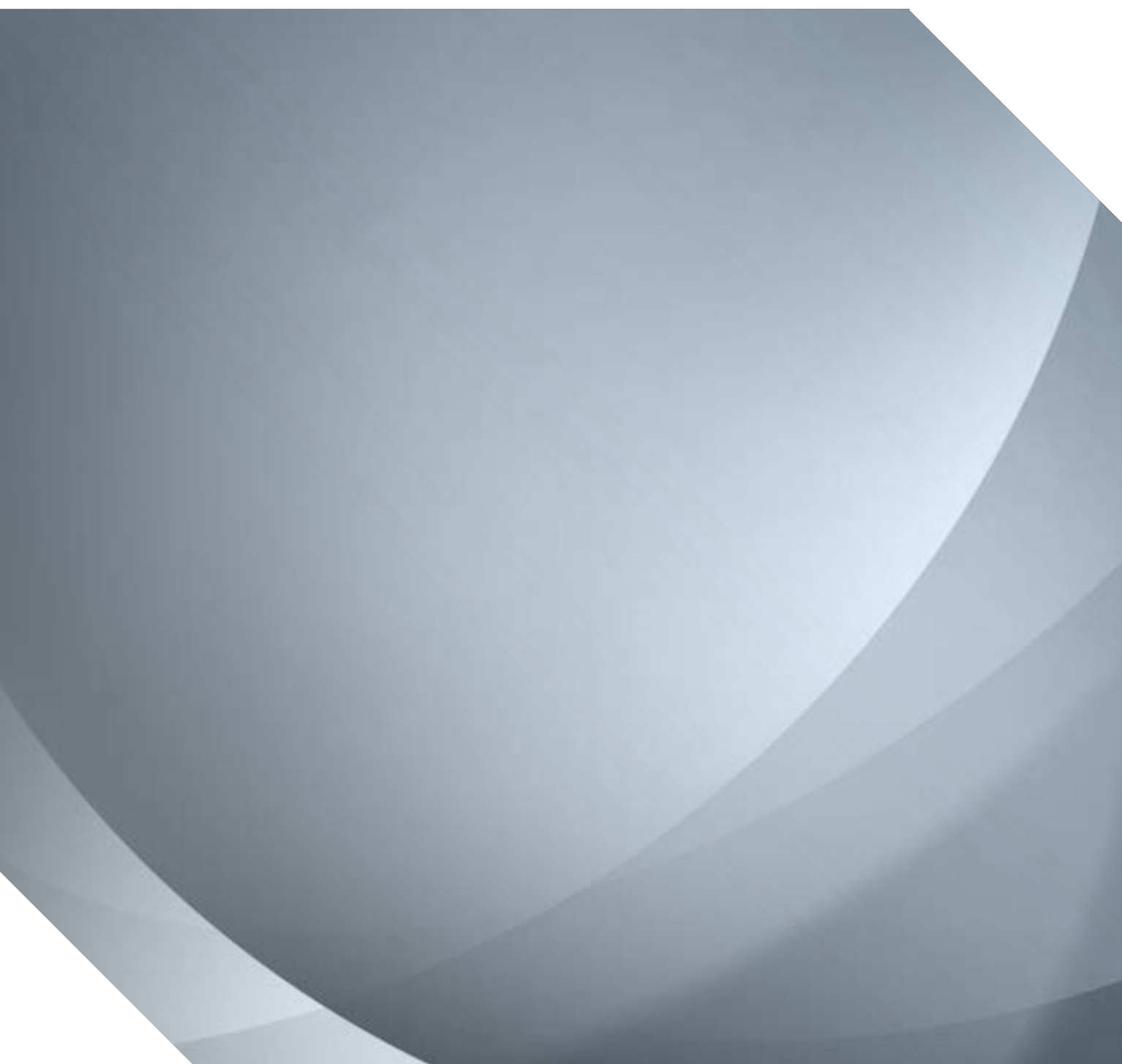


Investigation under section 41 of the Airports Act 1986 of the structure of charges levied by Heathrow Airport Limited - October 2013 data and analysis

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CHAPTER 1

Introduction

Introduction and purpose of this document

- 1.1 On 13 February 2013 Aer Lingus issued a claim for permission to judicially review the CAA's decision in this matter dated 17 December 2012. On 21 May 2013 the CAA withdrew the decision dated 17 December 2013 ("the withdrawn decision"¹). On 18 July 2013 Aer Lingus applied to the Court to withdraw its claim. This is a consultation document published by the CAA to solicit the views of interested parties on issues raised by Aer Lingus in its application for judicial review. The document is part of the process by which the CAA will reach its decision in this complaint. The issues considered are:
- the financial effects of the Heathrow Airport Limited's (HAL's) revised passenger charges on Aer Lingus; and
 - the methods by which the CAA should assess whether there has been any effect on competition.

Consultation and next steps

- 1.2 Any representations on this document must be sent to the CAA at the following e-mail address (rod.gander@caa.co.uk) by 28 November 2013.
- 1.3 Any representations received will be published on the working day following the closing day for representations. Representations should not contain information in a form which cannot be published as received by the CAA.
- 1.4 Any comments on those representations must be received by the CAA within 10 working days of publication of those representations by the CAA.
- 1.5 The CAA will then complete its further consideration of the complaint and publish its decision.

1 The withdrawn decision is on the CAA website at http://www.caa.co.uk/docs/78/HeathrowS41Decision2012_withdrawn.pdf.

Structure of this document

- 1.6 This document is structured as follows:
- Chapter 2 looks at the effects of the revised passenger charges on Aer Lingus.
 - Chapter 3 considers the methods by which the CAA should assess whether there has been any effect on competition.
 - Appendix A is the CAA analysis referred to in chapter 2.
 - Appendix B is data provided by HAL on total airport charges and total airport charges per passenger for the top 40 airlines at Heathrow.

CHAPTER 2

The effects of the revised passenger charges on Aer Lingus

Introduction

- 2.1 Aer Lingus said in paragraph 39 of its Statement of Grounds for judicial review “that if the charging structure had been constructed to ensure that the departing passenger charge levels properly reflected the 18% cost differential [to HAL] between domestic/Republic of Ireland (ROI) and other European passengers, Aer Lingus would be paying around £4 million less per year than it pays under the current disputed charging structure. ... By April 2013 this will have amounted to an aggregate overcharge in excess of £8 million”.
- 2.2 The CAA wishes to understand interested parties’ views on this analysis proposed by Aer Lingus. In particular, it wishes to understand the robustness of the figures which Aer Lingus relies upon and their relevance to the exercise in which the CAA is engaged.
- 2.3 This chapter considers the methodology by which the sum asserted by Aer Lingus is calculated and whether this sum is a reasonable assessment of the financial impact on Aer Lingus.

Aer Lingus conclusions and the HAL modelling

- 2.4 Aer Lingus’ calculation of the impact on it of HAL’s charges, HAL’s justification for its charges and the CAA’s analysis in the withdrawn decision of whether HAL’s charges are unreasonable are all based on an analysis of HAL’s modelling.
- 2.5 The CAA’s view is that modelling of this nature can never be wholly accurate as it is inevitably based on a number of assumptions. In particular, the allocation of costs of passengers involves a range of simplifications about the time passengers spend in an airport which are a very broad approximation. The CAA recognises that an allocation of costs between passengers on European routes and other passengers is, therefore, only a broad approximation of the levels of costs that such customers impose on HAL. Similarly, the CAA is concerned that the

previous arrangements which allocated costs between domestic, ROI and international passengers were also only a very broad approximation.

- 2.6 Whilst the CAA considers that the modelling put forward by HAL does show a material difference in the cost of handling passengers on domestic and ROI routes compared to handling passengers on other European routes the accuracy of the differential would appear to the CAA to be debatable.
- 2.7 Aer Lingus' use of the modelling to calculate the extent of the financial effects of the disputed charges on Aer Lingus involves relying on the model to a significantly greater degree of granularity than the CAA's broad analysis of the charges which lead to the conclusion that HAL had not provided a proper justification of its charge differentiation and that its charges could therefore be treated as unreasonably discriminatory.
- 2.8 It is the CAA's provisional view that the limitations of the modelling mean the CAA cannot rely on the modelling to calculate the precise financial impact of HAL's charges, and that the CAA should therefore be cautious about deciding whether a remedy is warranted predominantly on the basis of calculations derived from the cost model. Indeed, to the extent that any party wishes to make representations as to whether the limitations of the modelling mean that CAA should not make any finding of unreasonable discrimination, such representations should be made in response to this consultation.
- 2.9 Given that the CAA is minded to come to this conclusion, the CAA seeks representations on the points made above and in particular on:
- the robustness of HAL's modelling;
 - its adequacy for the calculation of specific financial adverse effects; and
 - the weight the CAA should attach to any conclusions or analysis drawn from the results of that modelling.

What divergence from cost reflective pricing is acceptable?

- 2.10 HAL's position has been that, whilst its starting point for setting the per passenger charge has been the cost to it of handling that passenger, it should not be required to levy purely cost reflective charges, partly because the resulting charging structure would be too complex. (The

evidence given was this would result in approximately 180 different passenger charges.)

- 2.11 In the withdrawn decision, the CAA accepted this point in principle. Although non-complexity is not necessarily a goal in itself a charging scheme should be easily understood, capable of being managed with reasonable resources and allow errors to be readily identified. The CAA found that against these tests it would not be overly burdensome for HAL to maintain a separate domestic/ROI charge and issues about complexity did not provide an objective justification for HAL applying a common charge for all passengers on European routes. The CAA concluded that HAL's charges were unreasonably discriminatory not because they were not cost orientated, but because HAL justified them on the basis of cost orientation when in fact they were not so justified.
- 2.12 Furthermore, the CAA's finding of unreasonable discrimination based on a cost differential of 16/18% does not mean that the only acceptable cost differential is zero. For instance, HAL initially believed that the cost differential was 11 %, and that such a differential was not material but within an acceptable margin (and therefore not unreasonable discrimination).
- 2.13 HAL's argument raises the question, to what extent should charges be cost oriented. Cost orientation would be a normal starting point (to avoid undue discrimination) but it does not follow that any lawful charge needs to be precisely cost reflective. This in turn gives rise to the question of how far any remedy should bring about cost oriented charging when that is not otherwise required.
- 2.14 This issue may be of particular concern where the basis of the cost allocation methodology may be seen as "broad brush" rather than very specific or accurate.
- 2.15 The CAA considers that some percentage of differential between the charge and cost may have been acceptable, given the range of acceptable bases for pricing, the absence of an obligation to price on a cost oriented basis, the limitations of the available modelling and the impracticability of a "per airline" charge. The consideration of adverse effects, therefore need not start from the assumption of a zero differential as some level of differential would have been acceptable and may not therefore have constituted unreasonable discrimination.
- The CAA would welcome representations on these issues.

Aer Lingus' calculations of the actual effect on it of the revised charges

- 2.16 As set out in paragraph 2.1 above Aer Lingus has submitted that the increased cost to it of the revised passenger charges is £4 million per annum. In its stage 3 submissions of September 2011 Aer Lingus calculated the impact on it of HAL's new charging structure based on an 11% cost differential between the cost of handling domestic/ROI passengers and the cost of handling other European passengers. At the time HAL said its modelling showed such an 11% differential. However, after Aer Lingus discovered flaws in the modelling, HAL accepted there was a 16% differential. Aer Lingus contends that the differential is 18%.
- 2.17 It appears to the CAA that Aer Lingus' initial calculations compared the consequences of being charged the actual revised charge and a charge 11% lower than the revised charge.
- 2.18 The CAA considers that Aer Lingus used the same approach to calculate the increased cost to it of the revised passenger charge in its application for judicial review, albeit now using a charge 18% lower than the revised charge. The methodology by which Aer Lingus may have reached its estimate of £4 million can be tested by comparing the HAL passenger charge of £21.80 applied to Aer Lingus' departing passengers at Heathrow in 2011 (1.098m passengers) producing £23.9 million against a charge 18% lower (£17.88) producing £19.6 million, a difference of £4.3 million.
- 2.19 In its pre-hearing submissions in January 2012, Aer Lingus calculated that if its per passenger charge for domestic/ROI passengers had been 18% lower its total airport charges payable to HAL in 2011 would have been £28.4 million, that is £4.1 million less than the £32.5 million it actually paid in 2011.
- The CAA would welcome views, in particular from Aer Lingus, on whether its assessment of how the £4 million figure was reached is correct.

What is the effect of the revised charges on Aer Lingus

- 2.20 While the CAA is unable to replicate Aer Lingus' figures above its preliminary view is that, the methodology used by Aer Lingus tends to overstate the financial effect of the revised per passenger charges on Aer Lingus (even ignoring issues concerning HAL's cost allocation

methodology raised above). The CAA's reasons for its preliminary view on this matter are set out below.

- 2.21 It seems to the CAA that Aer Lingus has reduced HAL's per passenger charge for domestic/ROI departing passengers by 18% and concluded that this results in the charge that it would be paying if HAL's per passenger charge were cost related. However, if Aer Lingus (and other airlines operating on domestic/ROI routes) paid a charge 18% lower this would have reduced HAL's overall revenue from airport charges. In that situation, HAL would presumably have adjusted its charges to generate the same amount of revenue to which it was entitled under the CAA price cap on airport charges at Heathrow. In its consultation on 2011/12 charges HAL said that it expected to generate revenue of £218 million from the Europe passenger charge. To maintain this overall revenue while decreasing revenue from domestic/ROI departing passengers HAL would have to increase passenger charges, pro rata, for passengers travelling on other European routes.
- The CAA would welcome representations on its view that Aer Lingus' assumption its charges would decrease by 18% is an oversimplification.
- 2.22 An alternative approach might be to re-calculate what passenger charges would generate the same amount of revenue for HAL if they reflected an 18% differential between the domestic/ROI charge and the rest of Europe charge and a 40% differential between the rest of Europe charge and the Rest of the World passenger charge². Using this alternative approach the CAA calculates that the European charge would have been £22.99 rather than £21.80 and the domestic/ROI charge £18.85 rather than the £17.88 under the assumed Aer Lingus methodology.
- 2.23 If the CAA decided it was appropriate to base the comparisons on the alternative approach set out in paragraph 2.22 above, the CAA calculates the 'overcharge' would be £2.6 million (see Table B1 in Appendix A). This figure is not directly comparable with Aer Lingus' figure of £4.1m as the latter includes all the airport charges the airline pays at Heathrow but it does suggest that the financial impact is likely to be less than that asserted by Aer Lingus even on the basis of Aer Lingus' approach to modelling. As Table B1 in Appendix A also shows the CAA calculates

2 HAL's modelling stated that HAL's costs in handling passengers on non-European routes were 40% higher than its costs of handling passengers on European routes.

that on a comparable basis the 'overcharge' to Aer Lingus, using Aer Lingus' methodology, would be £3.5 million.

2.24 The CAA also notes that if the difference between the amount domestic/ROI departing passengers and other European passengers cost HAL is 16% rather than 18%, the 'overcharge' would, using the approach in the previous paragraph, be £2.3 million.(see Table B1 in Appendix A).

- The CAA would welcome representations on this calculation and analysis.

2.25 The CAA's calculations above are based on the charges levied on point to point passengers and make no allowance for the lower charges paid in respect of transfer passengers. Under HAL's revised charging structure in 2011/12, transfer passengers were charged at a lower rate (£16.35 rather than £21.80 on European routes). Aer Lingus' evidence says that 19% of its passengers on domestic/ROI routes are transfer passengers. Taking transfer passengers into account the CAA estimates that Aer Lingus would have paid £3.1 million less at an 18% differential or £2.7 million less at a 16% differential compared to HAL's actual charges (see Table B2 in Appendix A). The CAA considers that these figures would be a more accurate indication of the impact of the revised charges on Aer Lingus (where Aer Lingus' methodology was otherwise being applied), as they recognise that some of Aer Lingus' passengers are transfer passengers.

- The CAA would welcome representations on this analysis including whether or to what extent and on what basis a finding of unreasonable discrimination would be appropriate.

What is the effect of the revised charges overall on all airlines in the class affected by the revised charges that are the subject of this complaint?

2.26 The CAA has also assessed the financial impact on all airlines operating on domestic/ROI routes using the same methodologies as described above. On the assumptions first that 19% of all domestic/ROI passengers are transferring at Heathrow (as for Aer Lingus) and second that the transfer charge is set at 75% of the point to point charge, otherwise using the Aer Lingus model the CAA estimates that, in aggregate, airlines serving domestic/ROI routes would have paid £10 million less at an 18% differential and £8.8 million less at a 16%

differential compared to HAL's actual charges in 2011/12. (see Table C2 in Appendix A).

- 2.27 The following table summarises the results of the CAA's preliminary assessment. The raw data on which the CAA based its assessment and its more detailed calculations are at Appendix A.

Table 1 CAA preliminary assessment of increased cost to Aer Lingus and all airlines on domestic/ROI routes of HAL's non-cost oriented passenger charges

	HAL actual charges in 2011/12	Assumed Aer Lingus methodology with 18% differential	Alternative approach with 18% differential	Alternative approach with 16% differential
Europe charge	£21.80	£21.80	£22.99	£22.85
Domestic/ROI charge	£21.80	£17.88	£18.85	£19.19
Transfer charge (75%)	£16.35	£13.41	£14.14	£14.39
Passenger charges paid by Aer Lingus (£000)	22,799	18,700	19,715	20,069
Difference (£000)		4,100	3,084	2,730
Passenger charges paid by airlines on all domestic/ROI routes (£000)	73,880	60,595	63,884	65,033
Difference (£000)		13,285	9,996	8,847

Note: Assumes 19% transfer passengers on all routes.

Summary of the CAA's preliminary analysis on the impact of the revised charges

- 2.28 The effect on Aer Lingus of HAL's decision to charge the same per passenger charge for domestic/ROI departing passengers and the rest of Europe passengers in 2011 is more likely to have been in the region of £2.7 - £3.1 million even using Aer Lingus' basic methodology. The CAA is minded to use these figures as a starting point in its assessment of the impact of the revised charges on Aer Lingus. However, as also highlighted, the CAA is concerned that the underlying basis for these figures is not such as to give substantial confidence in the extent of

actual cost differences imposed on HAL by different categories of passenger.

- The CAA would welcome any views on this analysis.

2.29 The calculations in the preceding paragraphs compare a zero price differential between Europe and domestic/ROI passengers with a cost differential to HAL of 16% or 18%. However, if the CAA was to conclude that, for example, a 5% cost differential would not be considered sufficiently material to require different levels of charge the calculation of any 'overcharge' on Aer Lingus would then amount to £1.6-£1.9 million (on the basis of Aer Lingus' figures as corrected). This would fall to £0.9-£1.2 million if a 10% differential was regarded as acceptable. Fuller details are in Table B3 in Appendix A.

- The CAA would welcome views on this further analysis and issues of materiality of such figures along with any representations on the nature and scope of the CAA's regulatory discretion in relation to such matters.
- Overall, the CAA would welcome comments as to whether it should conclude:
 - that the revised charges unreasonably discriminate against carriers on domestic and ROI routes as a class of user at Heathrow; and, if so,
 - what are the adverse effects of the unreasonable discrimination; and, whether,
 - the implications for the need for - or nature of - any remedy relation to any finding of unreasonable discrimination against carriers on domestic and ROI routes in respect of passenger charges.

Information the CAA has available to it to consider the impact of the revised charges on Aer Lingus in the context of Aer Lingus' particular circumstances

2.30 The analysis above considers the impact on Aer Lingus' in relation to its Heathrow routes alone. However, if the CAA concluded that the actual effects on Aer Lingus should be considered in the wider context of the airline's business, the CAA provisionally considers it should take the following data into account.

- 2.31 Across its network Aer Lingus pays nearly €300 million (around £230 million) in airport charges. Its estimate of its 'overcharge' of £4.1 million at Heathrow, represents 1.8% of this total. In terms of total network operating costs of €1324 million (£1030 million at an exchange rate of 1.29) Aer Lingus' view of its 'overcharge' at Heathrow is 0.4% of its operating costs. If the 'overcharge' was £3.1m or £2.7m in line with the CAA's calculations the proportion of Aer Lingus' operating costs would be lower.
- 2.32 The CAA has no information on the profitability of Aer Lingus' routes from Heathrow³. Aer Lingus' annual reports publish profits for the airline as a whole. These show the following operating results over the past five years:
- 2008 €20 million loss
 - 2009 €81 million loss
 - 2010 €52.5 million profit
 - 2011 €49.1 million profit
 - 2012 €69.1 million profit
- 2.33 While Dublin – London is, in Aer Lingus' submission, its most important route, it operates three other routes from Heathrow and overall the airline serves nearly 100 routes mainly within Europe but with some long haul routes as well. Consequently, in the CAA's preliminary view, whilst Aer Lingus' own estimate of a £4.1 million 'overcharge' on its domestic/ROI routes at Heathrow might in itself be considered a significant sum, and might be thought likely to reduce the airline's global profitability all other things being equal, the rest of the network is so large that no reliable conclusion can be drawn about how Aer Lingus' global business is affected, or how the charges in question will affect the route network or product offering as a whole.
- 2.34 Despite the increase in its airport charges at Heathrow, Aer Lingus continues to regard Heathrow as an important operating base. In the airline's 2012 report the Chief Executive Officer said: *"Aer Lingus has considerable experience and strength at London Heathrow. In 2014, we will move to Terminal 2 at Heathrow and this modern facility will provide us with a considerable opportunity to provide short haul feed from Ireland to our partner airlines operating long haul services at both this*

3 Aer Lingus operates to Belfast City, Dublin, Shannon and Cork from Heathrow.

terminal and other terminals in Heathrow. London Heathrow remains a focal point of our strategy. Despite not obtaining any slots from the remedy package related to the IAG acquisition of bmi, Aer Lingus remains interested in the outright purchase or lease of slots in order to enhance our feeder capabilities in London Heathrow”.

- 2.35 In the oral hearing of this complaint in January 2012 Aer Lingus’ evidence was that it had chosen not to pass all the increase in charges to its passengers.
- 2.36 In the CAA’s preliminary view, these two statements support a conclusion that Aer Lingus considers that the benefits to it of operating at Heathrow will continue to outweigh the costs to it of doing so. It is clear that Aer Lingus still regards Heathrow as an important part of its operations and that it is looking to increase, rather than decrease, the extent of its operations at the airport. The CAA does not therefore consider it likely that the revised passenger charges at Heathrow would of themselves cause Aer Lingus to reduce the quality and/or scale of its operations at the airport.
- The CAA would welcome representations on the preliminary views set out above.

CHAPTER 3

The methods by which the CAA should assess whether there has been any effect on competition

Introduction

- 3.1 In the CAA's withdrawn decision (paragraphs 2.2-2.16), the CAA explained that it proposed to consider whether HAL's revised charging structure either had affected, or had a tendency to affect, or harm competition between airlines. The CAA is minded to continue to take that approach for the reasons set out in the withdrawn decision.
- 3.2 Aer Lingus has argued that the CAA's analysis of the effect on airline competition was incorrect in two respects:
1. in paragraph 71 of its Statement of Grounds Aer Lingus argued that the CAA should not look at whether there have been any actual effects on competition but whether there has been any tendency to distort competition⁴; and
 2. in paragraph 74 of its Statement of Grounds Aer Lingus said that the CAA should consider a broader test of competition than airlines flying on domestic and ROI routes as Aer Lingus also competes against airlines flying to other European destinations.
- 3.3 As set out in the CAA's Notice dated 21 May 2013, the CAA has re-examined its consideration of this aspect of the case in light of Aer Lingus' representations. The CAA's provisional conclusions are set out below.

Theoretical or actual effect?

- 3.4 The CAA is minded to continue to consider that it should not only look at whether there has been a tendency to distort competition, but, where relevant evidence is available, it should consider the actual effects on airline competition on the routes affected by the charges it had found to be unreasonably discriminatory. The CAA considers that to disregard

4 Aer Lingus said that "A test of tendency to distort competition does not involve looking at actual effects in terms of an identifiable deterioration in relevant market positions. Quite the opposite..."

actual effects and rely instead on a purely theoretical approach would be perverse.

The relevant market in which to consider the effect on competition

- 3.5 With respect to Aer Lingus' contention that the CAA should look at airlines flying to other European destinations, the CAA notes that there have been a number of European Union airline competition cases that can guide an analysis of airline competition. The CAA's preliminary view is that the most relevant are the European Commission's consideration of IAG's acquisition of bmi⁵ and also its consideration of Ryanair's proposed acquisition of Aer Lingus⁶. The IAG/bmi case appears to be particularly pertinent as it relates to competition on short haul routes from Heathrow. In both cases the Commission concluded that the most appropriate approach was to look at competition on a route by route (city pairs) basis, rather than considering competition between different destinations.
- 3.6 In IAG/bmi, the Commission said it *"has traditionally defined the relevant market for scheduled passenger air transport services on the basis of the 'point of origin/point of destination' ('O&D') city pair approach⁷. Such a market definition reflects the demand-side perspective whereby passengers consider all possible alternatives of*

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Regulation (EC) No 139/2004 Merger Procedure - Case No COMP/M.6447-IAG/BMI (30 December 2012).

6

Regulation (EC) No 139/2004 Merger Procedure - Case No COMP/M.4439-Ryanair/Aer Lingus (27 June 2007).

7

"Commission's decision of 26 January 2011 in Case No COMP/M.5830 - Olympic/Aegean Airlines; Commission's decision of 27 July 2010 in Case No COMP.M5889 - United Air Lines/Continental Airlines; Commission's decision of 14 July 2010 in Case No COMP.M5747 - Iberia/British Airways, Commission's decision of 28 August 2009 in Case No COMP.M5440 - Lufthansa/Austrian Airways, Commission's decision of 14 May 2009 in Case No COMP.M5403 - Lufthansa/bmi, Commission's decision of 9 January 2009 in Case No COMP.M5364 - Iberia/Vueling/Clickair, Commission's decision of 22 June 2009 in Case No COMP.M5181 - Lufthansa/SN Airholding; Commission's decision of 6 August 2009 in Case No COMP.M5181 - Delta Air Lines/Northwest Airlines; Commission's decision of 4 July 2005 in Case No COMP.M3770 - Lufthansa/Swiss; Commission's decision of 11 February 2004 in Case No COMP.M3280 - Air France/KLM. The O&D approach was confirmed by the General Court, most recently in Case T-342/07 Ryanair Holdings plc v European Commission [2010] ECR, paragraph 53."

travelling from a city of origin to a city of destination, which they do not consider substitutable to a different city-pair. As a result, every combination of a point of origin and a point of destination is considered a separate market.

- 3.7 *In the past, the Commission has also taken into consideration supply-side elements such as network competition between airlines based on the hub and spoke structure of traditional carriers. However, the Commission considered that the degree of supply-side substitutability between different O&Ds remains limited. It considered in this respect that, although from a supply-side perspective a network carrier could in theory fly from any point of origin to any point of destination, in practice network carriers build their network and decide to fly almost exclusively on routes connecting to their hubs⁸.*
- 3.8 *In line with the Commission's notice on market definition⁹, the Commission has given pre-eminence to demand-side substitution, whereby it considered that customers still need the transportation from one point to another and that competition still takes place on an O&D city-pair basis (even though some customers, in particular corporate customers, may have concluded corporate agreements for a range of routes and the commercial advantages stemming from such agreements may lead them to prefer one airline among the different airlines that operate on the route). It has thus traditionally upheld the O&D approach".¹⁰*
- 3.9 *The Commission went on to say "during the market investigation, some competitors indicated that the O&D approach fails to capture the nature and extent of network competition and the issues of slot*

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"On the network approach, see: Commission's decision of 27 July 2010 in Case No COMP/M.5889 - United Air Lines/Continental Airlines, recital 9 and following; Commission's decision of 28 August 2009 in Case No COMP/M.5440 - Lufthansa/Austrian Airlines, recital 11 and following; Commission's decision of 14 May 2009 in Case No COMP/M.5403 - Lufthansa/bmi, recital 8 and following, Commission's decision of 22 June 2009 in Case No COMP/M.5335 - Lufthansa/SN Airholding, recital 12 and following; Commission's decision of 6 August 2008 in COMP/M.5181 - Delta Air Lines/Northwest Airlines, recital 8 and following; Commission's decision of 4 July 2005 in Case No COMP/M.3770 - Lufthansa/Swiss, recital 12 and following; Lufthansa/Swiss, recital 12 and following, Commission's decision of 11 February in Case No COMP/M.3280 - Air France/KLM, recital 9 and following; Commission's decision of 11 February 2004 in Case No COMP/M.3280 - Air France/KLM, recital 9 and following."

9

"Commission Notice on the definition of the relevant market, paragraph 13 (OJ C 372, 1997. p5)."

10 IAG/bmi, paragraph 31

availability and market dominance of carriers in slot restricted airports. It was also mentioned that while the O&D approach is appropriate for customers that have a particular destination in mind, it would not be appropriate for customers that do not. Some respondents also indicated that the Commission should pay particular attention as to which airports to include in the relevant O&D market, since not all airports at a given city are necessarily substitutable. Nevertheless, a large majority of respondents to the market investigation questionnaires (competitors, travel agents and corporate customers) agree with the O&D approach.”¹¹.

3.10 On the question of London airport substitutability the Commission said *“the parties, without distinguishing between time sensitive and non-time sensitive customers, consider that all London airports (Heathrow, Gatwick, City, Stansted and Luton and the new London Southend airport) and arguably also further airports in the South East of England are substitutable regardless of the city pair served”¹² ¹³.*

3.11 The Commission reached a similar conclusion in Ryanair/Aer Lingus saying: *“defining a market for a ‘bundle’ of all flights from or to Ireland is not the most appropriate way to define the market in the present case. From the demand side, passengers are in principle flying a given route to a given destination rather than from any route to anywhere”¹⁴.* Also *“the vast majority of airline customers book their flights according to plans to get from a specific city or region to another specific city or region. Following a small but significant and non-transitory price increase, these customers would not change their travel plans and choose another destination from Ireland”¹⁵ ¹⁶.* *“Furthermore, in the case of business passengers or passengers visiting friends and relatives, any substitutability of different destinations is unlikely as the purpose of their journey is itself connected to with a specific destination (place of a business meeting or place of residence of friends and relatives). For the vast majority of passengers, therefore, a flight from Ireland*

¹¹ IAG/bmi, paragraph 33

¹²

“The parties argue that there is no basis for concluding that customer preferences vary depending on which city they are flying to; the individual city-pair assessments indicate that the parties’ services are constrained by third-party services from any London airport.”

¹³ IAG/bmi, paragraph 47

¹⁴ IAG/bmi, paragraph 62

¹⁵

See e.g. case M.770 - Lufthansa/Swiss paragraph 12,.

¹⁶ IAG/bmi, paragraph 63

*to one destination is not simply substitutable with a flight to another destination.*¹⁷

- 3.12 On London airport substitutability the Commission observed *“that all of Ryanair’s direct competitors on the Dublin to London route (Aer Lingus, British Airways, bmi and Cityjet) take the view that London airports are substitutable for a majority of the point-to-point customers. This has been confirmed by many other carriers and by the affected airports”*.¹⁸
- 3.13 The Commission’s analysis in the preceding paragraphs leads the CAA to provisionally conclude that the most appropriate way of assessing whether HAL’s amended structure of passenger charges has adversely affected the competitive position of carriers on domestic/ ROI routes from Heathrow is to look at those routes on a city pair basis as these are the markets on which Aer Lingus and other airlines on Heathrow domestic/ROI routes compete¹⁹. In assessing competition between airlines the CAA is not minded to consider that it should look at charges levied on an airline operating to one destination (e.g. Dublin) to those levied on an airline operating to a different destination (e.g. Frankfurt)²⁰. The CAA is minded to agree with the Commission that passengers do not regard a flight to Frankfurt as an acceptable alternative to a flight to Dublin.
- 3.14 In its application for judicial review Aer Lingus argued that any analysis of competition should go beyond considering individual air routes. Aer Lingus quoted a number of cases where it said the Commission had

17 IAG/bmi, paragraph 63

18 IAG/bmi, paragraph 117

19 The CAA does not consider that this preliminary conclusion affects the views on competition between airports it has expressed in its market power assessments of Heathrow, Gatwick and Stansted. In assessing airport competition the CAA does not primarily have to consider whether passengers view the airports as substitutes, but whether airlines consider the airports as substitutes. In considering whether to move services from one airport to another an airline also has to consider the effects on the airline’s network of routes at the airports on passenger demand (i.e. transfer passengers) and the effects on the airline’s cost base of moving to a different airport. An airline, therefore, may not consider two airports to be substitutes in terms of the “airport to airline” services they supply even if passengers consider the airports to be substitutes in terms of flight options they see as comparable. The lack of availability capacity in the London area is also an important matter to be considered in analysing airport competition as airlines may not be able to obtain enough slots at another London airport to make moving its services worthwhile.

20 In looking at destinations where more than one airport serves a city the CAA will consider city pair data rather than data for just one airport. That is for London it will consider data for Heathrow, Gatwick, Stansted, Luton, London City and Southend combined, rather than just data for Heathrow.

applied a broader test of competition in cases of discrimination against transport operators. These cases were: *Aéroports de Paris*²¹, *Corsica Ferries*²² and *Portuguese airports*²³.

- 3.15 The CAA's current view is that the cases cited by Aer Lingus are not instructive for present purposes. The CAA considers it should attach greater weight to the IAG/bmi and Ryanair/Aer Lingus cases which involved similar routes to those in the current case (short haul routes from London and Irish airports) and similar airlines (including Aer Lingus, British Airways (IAG) and bmi). The CAA considers these are the markets on which Aer Lingus competes and hence its preliminary view that these are the right markets to assess to understand whether the revised passenger charges have affected Aer Lingus' ability to compete with other airlines. In contrast, the CAA is currently minded to attach less weight to cases that involved French airports, Portuguese Airports and an Italian seaport, which are cases where the Commission and the European Court were concerned with the effective establishment of the single European market in the face of apparent discrimination aimed at protecting domestic undertakings at the expense of those from other member states. The cases are also significantly less recent than the bmi/Ryanair cases.
- 3.16 In its Statement of Grounds, Aer Lingus said that as the IAG/bmi and Ryanair/Aer Lingus cases are merger cases they did not represent the standard approach to airline competition issues. The CAA is minded to disagree with Aer Lingus as these cases identify the European Commission's view on the proper approach to analysing competition between airlines, which is the issue the CAA is concerned with here.
- 3.17 In its application for judicial review Aer Lingus also referred to the Commission's decision that the Irish authorities' levying of an excise duty on air passenger transport that varied according to the distance flown constituted illegal state aid to Aer Lingus and other Irish airlines. The CAA notes that this case was concerned with state aid in respect of which there were doubts about its compatibility with the single market. Although the case concerns Aer Lingus and Irish routes, the CAA is minded not to consider it to be as relevant as the IAG/bmi and Ryanair/

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Case T-128/98 *Aéroports de Paris v Commission* [2000] ECR II-3929.

22

case C-18/93 *Corsica Ferries* [1993] ECR, I-1783.

23

Case C-163/99 *Portugal v Commission* ECR I-2613.

Aer Lingus cases which are directly concerned with airline competition on domestic and Irish routes from London. Furthermore, as this case is unpublished, the CAA is unable to review it and properly consider its implications for this complaint.

- The CAA would welcome representations on its analysis and preliminary conclusion that the appropriate market on which to assess the effect on airline competition is an analysis of city-pair data, and that it should accordingly use data relating to city pairs for the purposes of its analysis.

Evidence to inform the CAA's analysis of the effect, if any, on competition

3.18 The CAA has considered what evidence of city pair data it has available to assist it in assessing the effects on airline competition. Table 2 below looks at the domestic and ROI destinations that were served from Heathrow in 2010/11 showing for each the number of passengers in 2010/11, 2011/12 and 2012/13. It also looked at flight and passenger numbers for services from any of the six London airports to these destinations in the same period²⁴. (The table does not include services to Leeds Bradford which was not served from Heathrow in 2010/11 but was in 2012/13.) Table 3 looks at passenger numbers on the same routes for the same years at the six London airports combined.

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The London airports are Heathrow, Gatwick, Stansted, Luton, London City and Southend. Belfast includes both Belfast City and Belfast International airports. Glasgow includes Glasgow International and Prestwick airports.

Table 2 - Passengers numbers on domestic and ROI routes from Heathrow 2010/11, 2011/12, 2012/13 (% change from previous year). [Numbers in 000's]

	2010/11	2011/12	2012/13	% change 2012/13 compared to 2010/11
Aberdeen	631.4	649.6 (2.9%)	661.2 (1.8%)	(4.7%)
Belfast	745.1	708.6 (-4.9%)	681.6 (-3.8%)	(-8.5%)
Cork	384.0	393.7 (2.5%)	382.7 (-2.7%)	(-0.3%)
Dublin	1,476.5	1,563.4 (5.9%)	1,581.4 (1.1%)	(7.1%)
Edinburgh	1,267.7	1,264.1 (-0.3%)	1,222.9 (-3.3%)	(-3.5%)
Glasgow	1,020.4	776.9 (-23.9%)	848.7 (9.2%)	(-16.8%)
Manchester	796.3	766.4 (-3.8%)	766.4 (0.0%)	(-3.8%)
Newcastle	442.6	486.0 (9.8%)	480.8 (-1.1%)	(8.6%)
Shannon	269.8	269.7 (0.0%)	264.1 (-2.1%)	(-2.1%)
Total	7,033.8	6,878.4 (-2.2%)	6,889.8 (0.2%)	(-2.0%)

Source: CAA statistics

Table 3 - Passengers numbers on domestic and ROI routes from all London airports combined 2010/11, 2011/12, 2012/13 (% change from previous year). [Numbers in 000's]

	2010/11	2011/12	2012/13	% change 2012/13 compared to 2010/11
Aberdeen	892.6	1,002.5 (12.3%)	1,023.8 (2.1%)	(14.7%)
Belfast	2,001.3	1,975.0 (-1.3%)	2,017.1 (2.1%)	(0.8%)
Cork	790.7	798.8 (1.0%)	769.2 (-3.7%)	(-2.7%)
Dublin	3,502.3	3,698.0 (5.6%)	3,690.2 (-0.2%)	(5.4%)
Edinburgh	2,805.9	2,915.8 (3.9%)	2,861.7 (-1.9%)	(2.0%)
Glasgow	2,394.4	2,192.8 (-8.4%)	2,206.6 (0.6%)	(-7.8%)
Manchester	1,040.5	996.9 (-4.2%)	953.0 (-4.4%)	(-8.4%)
Newcastle	652.7	581.8 (-10.9%)	564.4 (-3.0%)	(-13.5%)
Shannon	547.8	562.1 (2.6%)	556.4 (-1.0%)	(1.6%)
Total	14,628.2	14,723.5 (0.7%)	14,642.4 (-0.6%)	(0.1%)

Source: CAA statistics

Inferences and conclusions the CAA is minded to make from the available evidence

(a) effect on all carriers

3.19 Tables 2 and 3 do not appear to show any evidence that carriers on domestic and ROI routes from Heathrow have been disadvantaged compared to carriers at other London airports. In 2011/12 passenger numbers at the six airports combined grew slightly whilst numbers at Heathrow declined by a small amount. In 2012/13 the situation reversed with some small growth at Heathrow and a slight decline at the six airports combined. Over the two years in total, there has been a slight decline at Heathrow whilst passenger numbers at the six airports combined are almost exactly the same. There has been no significant change on the routes combined over the years. In looking at individual

routes it is noticeable that the decline at Heathrow over the two years is entirely accounted for by falling passenger numbers on the Glasgow route in 2010/11. This reflected bmi's withdrawal from the route in March 2011. There have been various factors that may have affected passenger numbers in this period which has been one of weakness in both the UK and Irish economies. It has also been a time of change for airlines with the takeover of bmi by British Airways and the subsequent divestment of slots that led to the entrance of Virgin Little Red on Heathrow domestic routes²⁵. Overall the evidence does not suggest that HAL's charges have had a material effect on domestic and ROI carriers at Heathrow. This is re-inforced by the evidence of new entry on Heathrow domestic routes, by Virgin Little Red and by British Airways opening a new route to Leeds Bradford²⁶.

(b) effect on Aer Lingus

3.20 In its withdrawn decision, the CAA was not minded to consider the effect on Aer Lingus in isolation from the other carriers on domestic and ROI routes as all carriers on these routes had faced the same increase in passenger charges. The CAA has now looked at Aer Lingus passenger numbers in Tables 4 and 5, which show Aer Lingus passenger numbers at Heathrow and passenger numbers on the same city pair routes operated by all carriers for 2010/11, 2011/12 and 2012/13. The numbers do not appear to show that Aer Lingus has suffered a competitive disadvantage. In 2011/12 Aer Lingus' Heathrow passenger numbers increased more quickly than those of all airlines on the city pair. This was reversed in 2012/13 with Aer Lingus passenger numbers declining on all routes. However, in that second year, Aer Lingus performed better than all airlines on the Cork route and at a very similar level to all airlines than the Shannon route. Over the two years together Aer Lingus passenger numbers fell by 2.9% whilst total traffic on the city pairs grew by 2.8%. Although Aer Lingus did worse than other carriers in terms of passenger numbers the overall difference was small with the overall decline in Aer Lingus' passengers resulting from a sharp fall in numbers for Aer Lingus

25 Virgin Little Red has services to Manchester, Edinburgh and Aberdeen that are operated by Aer Lingus on a wet lease basis.

26 The CAA's duties to users in section 39 encompass passengers as well as airlines. The CAA looked at effects on passengers in its withdrawn decision and found no evidence that HAL's changes to its structure of charges had materially affected passengers on domestic and ROI routes from Heathrow. Tables 2 and 3 update the data shown in the withdrawn decision. In the CAA's views, the new information continues to show no evidence that passengers have been adversely affected by HAL's charges.

on one route, its Belfast route, in 2012/13. The CAA notes that in July 2012 British Airways re-launched a Heathrow-Belfast service replacing the route formerly operated by bmi. The CAA's preliminary views are that these results do not suggest that Aer Lingus has suffered a competitive disadvantage and that any apparent difference is likely to be due to factors other than HAL's charges.

Table 4 - Aer Lingus passenger numbers on routes operated at Heathrow 2010/11, 2011/12, 2012/13 (% change from previous year). [Numbers in 000's]

	2010/11	2011/12	2012/13	% change 2012/13 compared to 2010/11
Belfast	281.3	285.6 (1.4%)	219.9 (-22.9%)	(-21.8%)
Cork	384.0	393.7 (2.5%)	382.7 (-2.8%)	(-0.3%)
Dublin	1,155.6	1,239.8 (7.3%)	1,163.8 (-6.1%)	(0.7%)
Shannon	270.1	269.7 (-0.2%)	264.1 (-2.0%)	(-2.2%)
Total	2,091.0	2,188.4 (4.7%)	2,030.5 (-7.2%)	(-2.9%)

Source: CAA statistics

Table 5 - Passengers numbers carried by all airlines to the city pair destinations that Aer Lingus operates at Heathrow 2010/11, 2011/12, 2012/13²⁷ (% change from previous year). [Numbers in 000's]

	2010/11	2011/12	2012/13	% change 2012/13 compared to 2010/11
Belfast	2,001.3	1,975.0 (-1.3%)	2,017.1 (2.1%)	(0.8%)
Cork	790.7	798.8 (1.0%)	769.2 (-3.7%)	(-2.7%)
Dublin	3,502.3	3,698.0 (5.6%)	3,690.2 (-0.2%)	(5.4%)
Shannon	547.8	562.1 (2.6%)	556.4 (-1.0%)	(1.6%)
Total	6,842.1	7,033.8 (2.8%)	7,032.9 (0.0%)	(2.8%)

Source: CAA statistics

Evidence of effects on competition between different European destinations

3.21 As stated above in paragraph 3.13 the CAA considers that airlines compete with airlines operating to the same destination on a city pairs basis and not with airlines operating to different destinations. However, Aer Lingus considers that it would be informative to compare passenger numbers on domestic and ROI routes with those on other European routes. The CAA has therefore done so in Table 6 below.

²⁷ The figures show the number of passengers carried by all airlines (including Aer Lingus) on routes from the six London airports to the destinations that Aer Lingus serves from Heathrow.

Table 6 - Passengers numbers on domestic and ROI routes, and other European routes²⁸ from Heathrow 2010/11, 2011/12, 2012/13 (% change from previous year). [Numbers in 000's]

	2010/11	2011/12	2012/13	% change 2012/13 compared to 2010/11
Domestic and ROI routes	7,033.8	6,878.4 (-2.2%)	6,889.8 (0.2%)	(-2.0%)
Other European routes	22,630.9	24,398.1 (7.8%)	24,506.3 (0.4%)	(8.3%)

Source: CAA statistics

²⁸ Other European routes are to the following countries: Austria, Belgium, Bulgaria, Cyprus, Czech, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and Switzerland.

Table 7 - Passengers numbers on domestic and ROI routes, and other European routes²⁹ from London airports 2010/11, 2011/12, 2012/13 (% change from previous year). [Numbers in 000's]

	2010/11	2011/12	2012/13	% change 2012/13 compared to 2010/11
Other London airports ¹				
Domestic and ROI routes	7,594.4	7,845.1 (3.3%)	7,752.6 (-1.2%)	(2.1%)
Other European routes	41,300.0	43,915.0 (6.3%)	44,905.7 (2.3%)	(8.7%)
All London airports ²				
Domestic and ROI routes	14,628.2	14,723.5 (0.7%)	14,642.4 (-0.6%)	(0.1%)
Other European routes	63,930.8	68,313.1 (6.9%)	69,412.0 (1.6%)	(8.6%)

¹ Other London airports are: Gatwick, Stansted, Luton, London City and Southend.

² All London airports are other London airports plus Heathrow.

Source: CAA statistics

3.22 The figures in Table 6 show that at Heathrow passenger numbers on other European routes have grown over the two years by 8.3% compared to a fall in passengers on domestic and ROI routes of 2%. If Aer Lingus' contention that its Heathrow services (which are all to domestic or ROI destinations) compete with airlines operating from Heathrow to other European countries is correct, this could be evidence that airlines operating domestic and ROI routes from Heathrow (including Aer Lingus) have seen their competitive position weaken if the differential growth rates are due to HAL's revised charging structure. However, the figures for the other five London airports are similar to those at Heathrow. Passenger numbers on other European routes have risen by 8.7% over the two years, whilst passengers on domestic and ROI routes have only grown by 2.1%. Whilst the difference between the

²⁹ See footnote 27.

growth rates is larger at Heathrow than at the other London airports, it is not markedly so and the pattern of results is similar. It is informative to note that some of the other London airports have also changed their charging structures in ways that have raised charges on domestic/ROI services relative to other European services. London City abolished lower passenger charges on domestic routes in 2010/11, while Stansted abolished lower passenger charges on domestic and ROI routes in 2012/13, and Gatwick has in recent years increased the relative share of landing charges in total airport charges (which had a greater effect on operators of smaller aircraft that generally operate domestic routes)³⁰. This suggests that the larger difference between the growth rates at Heathrow may not be due to changes in HAL's charging structure. The CAA's provisional conclusion is that comparing passenger numbers on domestic and ROI routes with those on other European routes does not show that Aer Lingus' competitive position has been adversely affected.

- The CAA would welcome representation on the data it has analysed and the preliminary conclusions which it has drawn from that data.
- The CAA would also welcome representations on any other data which it is considered could inform the CAA's view when considering the effect of the revised charges on competition.

Has Aer Lingus been affected more than any other airline in the affected class?

3.23 In its Statement of Grounds Aer Lingus said that it was affected more than other airlines as it was the only airline that operates exclusively domestic and ROI flights at Heathrow and that the CAA had failed to take this into account when considering whether to exercise its discretion whether to impose conditions on HAL as a remedy. In its withdrawn decision the CAA did not consider that it could infer any impact on competition from this point, nor that in itself it justified the imposition of a remedy.

3.24 The CAA's conclusion in the withdrawn decision relied on evidence provided by HAL showing the changes in the 'total' and 'total per passenger' charges paid by the top 40 airlines at Heathrow³¹. In

³⁰ Gatwick Airport is currently consulting with airlines on a phased withdrawal of separate domestic and ROI passenger charges.

³¹ The top 40 airlines are the airlines with the highest number of passengers using their Heathrow services in the 6 months to the end of September 2011.

the withdrawn decision the CAA gave consideration to Aer Lingus' submission on why the data could not be relied upon, and set out the CAA's conclusions drawn from its analysis of the data. (See paragraphs 4.14 – 4.21). In summary, the CAA concluded that "these figures ... did not show that any particular airline or class of airline was affected more significantly than other airlines". The CAA was not commenting on whether Aer Lingus was financially affected more than any other airline, rather whether there was any evidence to suggest that Aer Lingus' ability to compete was affected more than any other airline. The CAA has now set out above a preferred approach to the assessment of the effect of the revised charges on competition.

- 3.25 In its Statement of Grounds Aer Lingus criticised the CAA's analysis as it considered the CAA should only have considered the effects of changes in domestic, ROI and other European passenger charges rather than all airport charges. However, the analysis was directed at Aer Lingus' argument that it has suffered a competitive disadvantage compared to airlines flying to destinations outside the UK/ROI. Airlines on other routes will necessarily pay a different mix of airport charges, and hence the CAA considered whether having to pay the new passenger charges meant that Aer Lingus faced a greater increase in the airport charges it paid than other airlines flying to other destinations. In that context the CAA found that the data did not show that any particular airline was more significantly affected than other airlines. Furthermore, and for the reasons set out above the CAA's preliminary view is that the relevant market to consider the affect on competition is point to point (city pairs) and accordingly an assessment of the affect on competition across European destinations is not helpful or appropriate in the context of this complaint.
- 3.26 HAL has updated those figures (Appendix B). The updated figures continue to show that the amount paid in airport charges by individual airlines varies, but there is no one airline that is obviously an outlier and is paying considerable more on a per passenger basis than any other airline. Aer Lingus continues to be near the top of the table but is not at the top. In terms of the absolute amount paid per passenger in airport charges in 2012/13 Aer Lingus paid less than any of the other top 40 airlines. (In 2010/11 it also paid less than any other of the top 40 airlines, in 2011/12 two other airlines in the top 40 paid less.) The CAA is not minded to change the conclusions drawn from the earlier figures published in the withdrawn decision.

- The CAA would welcome representations on whether the conclusion referred to above is a valid conclusion to reach in light of the new information submitted to CAA by HAL.
 - Furthermore, the CAA would welcome representations in the light of the analysis considered above (or any part of it) as to the implications for the need for - or nature of - any remedy in relation to any finding of unreasonable discrimination against carriers on domestic and ROI routes in respect of passenger charges.
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APPENDIX A

CAA analysis referred to in chapter 2 of this document

Raw data used in CAA calculations

			Source/assumption
TOTAL PASSENGERS			
Total domestic departing passengers	a	2,519,159	HAL forecast for 2010/11
Irish departing passengers	b	1,038,824	HAL forecast for 2010/11
Total domestic/Irish departing passengers	a+b	3,557,983	HAL forecast for 2010/11
Aer Lingus departing passengers	c	1,098,000	HAL traffic data for 2011
Total Europe passengers (including domestic/ROI)	d	13,767,869	HAL forecast for 2011/12
Total Europe passengers (excluding domestic/ROI)	d-(a+b)	10,209,886	HAL forecast for 2011/12 minus HAL forecast for 2010/11
TRANSFER PASSENGERS			
Domestic transfer passengers	e	478,640	19% of total as for Aer Lingus
Irish transfer passengers	f	197,376	19% of total as for Aer Lingus
Total domestic/Irish transfer passengers	e+f	676,016	
Aer Lingus transfer passengers	g	208,620	19% of total - Aer Lingus evidence
Europe transfer passengers (including domestic/ROI)	h	3,760,991	HAL forecast for 2011/12
Europe transfer passengers (excluding domestic/ROI)	h-(e+f)	3,084,975	
POINT TO POINT PASSENGERS			

Domestic departing passengers	a-e	2,040,519	
Irish departing passengers	b-f	841,448	
Total domestic/Irish departing passengers	(a-e) - (b-f)	2,881,967	
Aer Lingus departing passengers	c-g	889,380	
Total Europe passengers (including domestic/ROI)	d-h	10,006,878	
Total Europe passengers (excluding domestic/ROI)	[d-(a+b)] -[h-(e+f)]	7,124,911	
REVENUE AND CHARGES			
Revenue from Europe point to point passengers		£218,148,940	HAL forecast for 2011/12
Average Europe charge		£21.80	Actual charge in 2011/12
Revenue from Europe transfer passengers		£61,492,203	HAL forecast for 2011/12
Average Europe transfer charge		£16.35	Actual charge in 2011/12 (25% discount)
Total revenue from Europe passengers		£279,642,143	HAL forecast for 2011/12

CAA calculations of financial impact of HAL charging structure

Table A: Revised charges in 2011/12

	HAL actual charges	Charges with 18% differential	Charges with 16% differential	Charges with 10% differential	Charges with 5% differential
Revenue to be generated	£218,149,940	£218,149,940	£218,149,940	£218,149,940	£218,149,940
Europe Passengers		7,124,912	7,124,912	7,124,912	7,124,912
Domestic/ ROI passengers		2,881,966	2,881,966	2,881,966	2,881,966
Total passengers	10,006,878	10,006,878	10,006,878	10,006,878	10,006,878
Average charge	£21.80				
Average Europe charge		£22.99	£22.85	£22.45	£22.12
Average domestic/ ROI charge		£18.85	£19.19	£20.21	£21.01

Table B1: Impact on Aer Lingus (no allowance for margin of discretion)

	Aer Lingus methodology with 18% differential	Alternative approach with 18% differential	Alternative approach with 16% differential
Aer Lingus domestic/ROI passengers	889,380	889,380	889,380
Actual charge	£21.80	£21.80	£21.80
Revised charge	£17.88	£18.85	£19.19
Difference	£3.92	£2.95	£2.61
Total revenue impact	£3,486,370	£2,623,671	£2,321,282

Table B2: Total passenger charges paid by Aer Lingus

	At HAL charges	Aer Lingus methodology with 18% differential	Alternative approach with 18% differential	Alternative approach with 16% differential
Aer Lingus point-point passengers	889,380	889,380	889,380	889,380
Aer Lingus transfer passengers	208,620	208,620	208,620	208,620
Point to point charge	£21.80	£17.88	£18.85	£19.19
Transfer charge (75%)	£16.35	£13.41	£14.14	£14.39
Revenue from pt-pt charge	£19,388,484	£15,902,114	£16,764,813	£17,067,202
Revenue from transfer charge	£3,410,937	£2,797,594	£2,949,887	£3,002,042
Total revenue	£22,799,421	£18,699,708	£19,714,700	£20,069,244
Difference		£4,099,713	£3,084,721	£2,730,177

Table B3: Impact on Aer Lingus (allowing for margin of discretion)

	Charges with 18% differential	Charges with 16% differential
Aer Lingus Domestic/ROI passengers	889,380	889,380
Charge at 5% margin of discretion	£21.01	£21.01
Revised charge	£18.85	£19.19
Difference	£2.16	£1.82
Total revenue impact (1)	£1,921,061	£1,618,672
Charge at 10% margin of discretion	£20.21	£20.21
Revised charge	£18.85	£19.19
Difference	£1.36	£1.02
Total revenue impact (2)	£1,209,557	£907,168

Table C1: Impact on all airlines on domestic/ROI routes (no allowance for margin of discretion)

	Aer Lingus methodology with 18% differential	Alternative approach with 18% differential	Alternative approach with 16% differential
Domestic/ROI passengers	2,881,966	2,881,966	2,881,966
Actual charge	£21.80	£21.80	£21.80
Revised charge	£17.88	£18.85	£19.19
Difference	£3.92	£2.95	£2.61
Total revenue effect	£11,297,307	£8,501,800	£7,521,931

Table C2: Total passenger charges paid by all airlines on domestic/ROI routes

	At HAL charges	Aer Lingus methodology with 18% differential	Alternative approach with 18% differential	Alternative approach with 16% differential
Point-point passengers	2,881,966	2,881,966	2,881,966	2,881,966
Transfer passengers	676,016	676,016	676,016	676,016
Point to point charge	£21.80	£17.88	£18.85	£19.19
Transfer charge (75%)	£16.35	£13.41	£14.14	£14.39
Revenue from pt-pt charge	£62,826,858	£51,529,552	£54,325,059	£55,304,927
Revenue from transfer charge	£11,052,874	£9,065,374	£9,558,866	£9,727,870
Total revenue	£73,879,732	£60,594,926	£63,883,925	£65,032,797
Difference		£13,284,806	£9,995,807	£8,846,935

Table C3: impact on all airlines on domestic/ROI routes (allowing for margin of discretion)

	Charges with 18% differential	Charges with 16% differential
Domestic/ROI passengers	2,881,966	2,881,966
Charge at 5% margin of discretion	£21.01	£21.01
Revised charge	£18.85	£19.19
Difference	£2.16	£1.82
Total revenue impact (1)	£6,225,047	£5,245,178
Charge at 10% margin of discretion	£20.21	£20.21
Revised charge	£18.85	£19.19
Difference	£1.36	£1.02
Total revenue impact (2)	£3,919,474	£2,939,605

APPENDIX B

Total airport charges and total airport charges per passenger for top 40 airlines³². Data provided by HAL on 5 June 2013

Table C1 Total airport charges (millions) - 12 months to 31 March

	a	b		c	
	2010/11	2011/12	Variance % (a vs b)	2012/13	Variance % (b vs c)
Short	0-6m	6-12m	128.1%	6-12m	-7.1%
Long	>12m	>12m	90.5%	>12m	6.1%
Long	0-6m	0-6m	34.7%	0-6m	8.8%
Mid	6-12m	6-12m	46.7%	6-12m	10.7%
Mid	0-6m	0-6m	49.6%	6-12m	18.6%
Mid	6-12m	6-12m	31.5%	6-12m	18.9%
Mid	6-12m	>12m	35.8%	>12m	30.0%
Long	0-6m	0-6m	26.8%	0-6m	-1.3%
Short	>12m	>12m	30.4%	>12m	2.2%
Mid	>12m	>12m	28.3%	>12m	17.9%
Long	6-12m	>12m	23.4%	>12m	25.8%
Long	6-12m	6-12m	26.9%	6-12m	20.4%
Long	6-12m	6-12m	28.7%	>12m	17.0%
Mid	0-6m	0-6m	27.7%	6-12m	16.8%
Long	0-6m	0-6m	21.8%	0-6m	-2.0%
Long	>12m	>12m	21.4%	>12m	8.1%
Long	>12m	>12m	22.1%	>12m	4.1%
Long	>12m	>12m	20.4%	>12m	-2.2%
Long	0-6m	6-12m	17.3%	6-12m	6.0%
Mid	>12m	>12m	16.3%	6-12m	-33.8%
	2010/11	2011/12	Variance % (a vs b)	2012/13	Variance % (b vs c)
Long	>12m	>12m	18.8%	>12m	19.5%

³² See footnote 30

Long	6-12m	6-12m	9.3%	6-12m	1.6%
Long	>12m	>12m	17.1%	>12m	14.1%
Short	0-6m	0-6m	15.4%	6-12m	19.7%
Long	6-12m	6-12m	17.0%	6-12m	-2.7%
Long	>12m	>12m	13.8%	>12m	10.2%
Short	>12m	>12m	8.9%	>12m	-0.6%
Short	>12m	>12m	13.1%	>12m	13.6%
Short	6-12m	6-12m	8.5%	6-12m	13.3%
Short	>12m	>12m	4.6%	>12m	7.7%
Short	6-12m	6-12m	9.8%	>12m	18.6%
Short	>12m	>12m	4.2%	>12m	1.2%
Long	>12m	>12m	9.5%	>12m	15.4%
Short	0-6m	0-6m	2.9%	0-6m	1.9%
Short	>12m	>12m	6.3%	>12m	-66.3%
Short	0-6m	0-6m	1.2%	6-12m	49.3%
Short	6-12m	>12m	5.3%	>12m	16.9%
Long	6-12m	6-12m	0.9%	6-12m	5.6%
Long	6-12m	6-12m	2.6%	6-12m	7.6%
Mid	0-6m	0-6m	-27.6%	0-6m	-8.4%
Total	922.9	1,090.8	18.2%	1,197.9	9.8%

Source HAL

Table C2: Airport charges per passenger - 12months to 31 March

	a	b		c	
	2010/11	2011/12	Variance % (a vs b)	2012/13	Variance % (b vs c)
Mid	<15	>17	29.1%	>17	11.5%
Mid	<15	>17	30.1%	>17	11.6%
Mid	<15	>17	25.7%	>17	7.8%
Short	<15	<15	24.5%	15-17	10.1%
Long	15-17	>17	25.2%	>17	1.7%
Long	<15	>17	24.8%	>17	10.5%
Long	15-17	>17	22.7%	>17	11.1%
Long	15-17	>17	23.0%	>17	8.0%
Long	<15	>17	26.5%	>17	16.0%
Long	15-17	>17	18.0%	>17	12.6%
Long	15-17	>17	20.6%	>17	8.8%
Mid	15-17	>17	22.8%	>17	10.3%
Long	15-17	>17	17.1%	>17	13.8%
Long	15-17	>17	18.0%	>17	13.7%
Long	15-17	>17	19.1%	>17	11.7%
Short	<15	15-17	17.4%	>17	18.0%
Mid	<15	>17	20.6%	>17	11.6%
Long	15-17	>17	18.1%	>17	12.5%
Long	15-17	>17	15.1%	>17	8.8%
Long	15-17	>17	15.5%	>17	11.3%
Long	15-17	>17	14.9%	>17	10.7%
Mid	15-17	>17	13.4%	>17	12.0%
Long	15-17	>17	11.6%	>17	8.6%
Long	15-17	>17	12.7%	>17	15.3%
Mid	>17	>17	9.6%	>17	5.8%
Long	>17	>17	15.9%	>17	6.6%
Long	<15	15-17	7.2%	>17	8.6%
	a	b		c	
	2010/11	2011/12	Variance % (a vs b)	2012/13	Variance % (b vs c)
Short	15-17	15-17	3.9%	>17	9.3%
Short	<15	15-17	6.1%	>17	12.3%

Short	15-17	15-17	6.1%	>17	11.8%
Short	15-17	15-17	4.0%	>17	10.4%
Short	15-17	15-17	2.4%	>17	10.0%
Short	15-17	15-17	2.8%	>17	10.3%
Short	<15	15-17	2.5%	15-17	10.7%
Short	15-17	15-17	1.5%	>17	15.6%
Short	15-17	15-17	2.5%	>17	14.6%
Short	15-17	15-17	-1.1%	>17	12.0%
Long	15-17	15-17	-1.6%	>17	11.5%
Short	<15	<15	-1.9%	>17	20.1%
Mid	<15	<15	-3.0%	15-17	18.7%
Average	15.48	17.56	13.4%	19.54	11.2%

Source HAL

