

**Response of BAR UK
to the consultation
'Promoting Financial Resilience for Major Airports'**

Introduction

The Board of Airline Representatives in the UK (BAR UK) is the industry association for scheduled airlines with a UK presence, and represents their interests in aero-political matters.

Membership comprises 90+ scheduled airlines (full details at www.bar-uk.org).

Opening remarks

1. BAR UK is pleased to be able to respond to this consultation, but asks it to be noted that the consultation period is a mere 8 weeks (10 Dec 09 - 04 Feb 10), rather than the standard 12 weeks minimum quoted within Annex B: Code of Practice on Consultation.
2. It is remiss of the consultation questions to ignore airlines as airport customers, in the context of the questions posed. This aspect will feature, as appropriate, in our responses below.
3. It is understood that Tier 1 airports will be three only, London Gatwick, Heathrow and Stansted.

Responses to consultation questions

CONTINUITY OF SERVICE PLANS (CSP)

- a) Should the regulatory regime include a licence condition in Tier 1 licences to produce and maintain a CSP in the initial licence and allow the regulator to introduce such a licence condition in future licences?**

Response: BAR UK fully agrees with the proposals.

- b) If such a licence condition were to be introduced, what would be the costs and benefits of such a step?**

Response: The benefits of such a step are that the airports' prime customers, the air carriers that commit to operating to the airport, who pay the airport charges, and who commit as partners to the substantial investments at Tier 1 airports, have the heavy risks of doing so mitigated.

- c) If such a licence condition were to be introduced, is there any information in the list above that is not required, and why is it not required? Is there any additional information that should be included in a CSP, and if so why?**

Response: BAR UK believes that additional elements are required to be taken into account.

(i) Specifically, whilst capital spending is referred to, the quantum of cost needs to be taken into account, and also the longevity of such capital expenditure plans.

That longevity could vary between Tier 1 airports.

For example, there are multi-billion pound capital expenditure plans at Heathrow over many years, whereas those at Gatwick and Stansted are likely to be far less in terms of both money and time. Therefore, specific conditions to each may be required.

(ii) At these regulated airports, airline customers would require that Service Quality Rebates are maintained at all times.

(iii) Surface transport/airport interface facilities should be included. These would include rail, bus and coach stations, plus car hire/car parking infrastructure.

(iv) A contingency proviso might also be applicable for government-imposed regulations e.g enhanced security regimes.

d) If such a licence condition were to be introduced, how often or on what basis would the plan need to be updated in order for it to remain relevant?

Response: Once the CPS has been established, it would be sensible to require an annual update.

DEROGATIONS

45a) Do you agree that for the removal of initial derogations there should be a supplementary test for the regulator to consider?

Response: BAR UK offers no generic response. It is suspected that each Tier 1 airport will have its own unique considerations to take into account, and that they will have to be assessed separately.

45b) Do you agree that the proposed supplementary test consisting of a material change in circumstance and cost benefit analysis would achieve the DfT's objective outlined in paragraph 9?

Response: No response offered.

45c) If you disagree what alternative would you suggest that meets the DfT's objective, and why?

Response: not applicable as no comment offered in 45b) above.

45d) Do you agree that appeals of a decision by the regulator as to whether the conditions for removal of the initial derogations have been satisfied should be to the Competition Commission on an adjudicative basis and that the parties who should be able to appeal are the regulated company, Passenger Focus and the Secretary of State?

Response: BAR UK strongly disagrees.

It is simply wrong that airlines are totally excluded and that Passenger Focus is proposed instead.

The financial well-being of Tier 1 airports is intrinsically linked to the risk-sharing of airports' investments incurred by their airline customers. Passengers do not share any of that risk nor directly contribute to the investment plans of airports.

Further more, Passenger Focus is not a party to capital expenditure plans nor the risk-sharing incurred by airlines. It is illogical, therefore, to have that organisation as an arbiter in the adjudication process, and the proposal to include them should be dropped.

Airlines, as the key customers of airports, and their risk-sharing role in those airports, are best placed to adjudicate to participate in this process. In doing so, they would have the commercial imperative of acting to protect passengers' interests.