



January 2012

## CONTENTS

1. Air Passenger Duty consultation - a waste of time and a lost opportunity
  2. EU ETS – reaction to the ECJ judgement
  3. ATOL Reforms
  4. Successful response to UK public services strike
  5. Membership changes and other BAR UK News
- 

### **Chief Executive's Welcome**

A very warm welcome to our first Newsletter of 2012, and best wishes to all our readers for the year ahead. It will surely be another year full of challenges for aviation and travel!

The top priority is to get government to accept that aviation is a vital part of the solution to the country's economic recovery.

In strategic terms, two key achievements are required;

The first must be to achieve a decisive and positive UK hub airport policy. Continuing in the same drifting manner and the current state of inertia is not only unacceptable, but will be a great impediment to the country's economic revival.

The second must be achieving the decision to halt the ever-increasing tax burdens laid upon aviation in the form of double taxation through Air Passenger Duty and the EU Emissions Trading Scheme.

Aviation is already a net contributor to the economy; continuing to use it as an easy target by which to replenish Treasury coffers will simply drive business and airlines away.

BAR UK is involved with all of these challenges and will continue to represent the views and concerns of our many member airlines. We bring valuable international viewpoints to all these topics that impact the UK globally.

Government really must wake up to the fact if it continues with its current policies and outlooks, then it should not be surprised when destinations and flights are lost to the UK because doing business here is legislated with costs and obstacles far more than in other countries.

**Mike Carrivick – Chief Executive**

## 1. Air Passenger Duty (APD) consultation - a waste of time and a lost opportunity

For years, regardless of whether APD was considered an environmental tax or the revenue-raising opportunity to which it has reverted, a simple 2-band rate structure existed, based on destinations either within, or outside the EU.

APD may not have been liked, but at least its simple charging principles were understood.

However, all changed back in 2007 when the Chancellor decided to complicate matters and introduce 4 bands. This introduced a number of aberrations, affecting tourism to the Caribbean and a number of other countries.

After massive travel industry campaigning, the Treasury's APD consultation of May 2011 was welcomed. It sought responses on five main issues, which are summarised below together with the government decisions.

- I. The 4-band structure to be reduced to 3-band or 2-bands - **no change because some would be affected more than others**. BAR UK points out that this was a known fact beforehand.
- II. Premium Economy travellers to be rated at the same rate as standard economy, rather than continuing to pay the same as First and Business Class travellers – **no change due to revenue implications**. BAR UK maintains that serious inequities continue to exist.
- III. Passengers on executive jets to also be liable to pay APD – **APD on private aviation to be implemented from 2013**. BAR UK questions why a delay is acceptable for private aviation but not for commercial aviation.
- IV. Variations in APD to apply to UK regional airports – **No decision either way**
- V. APD rates and/or revenues to be devolved to regional governments/assemblies – **No decision either way**. The decision to make changes to APD rates on long-haul flights from Northern Ireland, because of the distinct drift of residents to take flights from Dublin instead, is causing more work to be undertaken.

**In summary:** The significant amount of work and effort that went into responding to some very detailed questions and scenarios has been a complete waste of everybody's time.

There is genuine anger within the industry about this. There is also great disappointment that Treasury, by its own indecision, has lost the opportunity to simplify matters and eradicate the injustices of the current system it created in 2007, and which would have rebuilt relationships and confidence at home and abroad.

The issues will not go away and BAR UK looks forward to continuing to represent its members' interests in its dealings with the UK Treasury.

## 2. EU ETS – reaction to the ECJ judgement

With over 99.5% of BAR UK airlines also being members of IATA, it is a given we support the views of IATA on this topic.

Set out below, in full, is IATA's response to the recent judgement of the European Court of Justice concerning the legal challenge to the imposition of the EU ETS on all carriers, and its geographical reach.

### ***IATA Disappointed with EU Court Decision on ETS***

*Geneva - The International Air Transport Association (IATA) expressed disappointment at today's decision by the Court of Justice of the European Union (CJEU) which upheld European Union (EU) plans to include international aviation in the EU emissions trading scheme (ETS) from 2012. The CJEU decision represents a European legal interpretation of EU ETS; however, the success of Europe's plans will depend on how non-European states view its legal and political acceptability. In this respect, there is growing global opposition.*

*"Today's decision is a disappointment but not a surprise. It does not bring us any closer to a much-needed global approach to economic measures to account for aviation's international emissions. Unilateral, extra-territorial and market distorting initiatives such as the EU ETS are not the way forward. What is needed is a global approach agreed through the International Civil Aviation Organization (ICAO)," said Tony Tyler, IATA's Director General and CEO.*

*The CJEU decision was in response to a legal challenge presented by the Air Transport Association of America (now Airlines for America), a number of US airlines, IATA and the National Airlines Council for Canada. Together they argued that the EU ETS contravened the Chicago Convention which prohibits such taxation of international aviation. The CJEU ruled that the Chicago Convention does not bind the EU which is not a signatory and that the ETS does not violate any other aspect of international law.*

*"The CJEU decision may reflect European confidence in European plans. But that confidence is by no means shared by the outside world where opposition is growing. A formal resolution of the ICAO Council supported by 26 countries urged Europe to take a different approach. India is reported to have instructed its airlines not to comply. Similar legislation is moving through the US Congress. Other legal challenges are expected. And on 16 December the US Secretaries of State and Transportation warned that the US would be compelled to take appropriate action if Europe does not re-think its plans," said Tyler. The US letter noted that at least 43 countries have publicly objected to Europe's plans.*

*The air transport industry has made global commitments to improve fuel efficiency by 1.5% annually to 2020, to cap net emissions from 2020 and to cut net emissions in half by 2050 (compared to 2005 levels). "A global framework for economic measures is a critical component of our strategy to achieve these challenging targets.*

*"But we won't get agreement on a global approach if states are throwing rocks at each other because Europe wants to act extra-territorially. Europe should take credit for raising the issue of aviation and climate change on the global agenda. But what is needed now is for Europe to work with the rest of the world through ICAO to achieve a global solution. Today's decision has not changed that reality," said Tyler.*

*At its 37th Assembly in 2010, 15 principles were agreed through ICAO for a global framework on economic measures. A commitment to develop a framework based on these measures for agreement at the 38th ICAO Assembly in 2013 was also achieved.*

BAR UK believes that there is a lot of international antipathy about the manner in which the EU ETS has been instigated. What may be legal in one sense, and what may be right in another, and what might be done about it, remains to be seen.

### **3. ATOL Reforms**

It is not disputed that the Air Travel Organisers' Licence (ATOL) rules are complex and often unclear about when and to whom they apply. However, the reforms that have been proposed seem just as labyrinthine. Why not get back to basics?

The purpose of the ATOL system was to provide financial protection to consumers who had purchased packaged holidays – a nice and easy system to understand. Since then, for whatever reason, the system has got extremely messy, difficult to understand, and fraught with legal definitions and interpretations about the legal relationship between seller and buyer. We are left with confusion over what is a package holiday and what isn't, added to the fact that the financial protection fund is now seriously over-drawn.

Reforms are therefore needed; however, the proposals simply add to the confusion and complexity, with consumers still able to be sold travel without financial protection, possibly thinking that they are protected.

BAR UK advocates (i) that the reforms completely clarify matters so that only pre-packaged holidays are subject to ATOL protection, and (ii) customers of all other air travel purchases are clearly advised those purchases do not enjoy ATOL protection.

Customers can then take their own considered view as to whether or not they would like some form of insurance; if so, they can consider the protection offered by credit cards or purchasing travel insurance that specifically includes failures of tour operators and airlines.

*Let consumers decide, rather than have a complex ATOL system be imposed upon them.*

### **4. Successful responses to UK public services strike**

The strike by UK public service workers on 30 November included a great number of UK Border Agency staff who manage the border controls at all UK airports. The effects of the strike could have been so serious at major airports including Heathrow, Gatwick and Manchester, as to close operations within a matter of hours with the effects of diversions and mass cancellations being felt for days.

That didn't happen! Why?

Because there was unprecedented cooperation between all those concerned.

In the case of Heathrow, this included Heathrow Airport Ltd, UKBA, the home-based airlines, Airline Operators' Committee, NATS, ground handling companies, and many others, including BAR UK.

The cooperation was under-pinned by the full and open sharing of vital information, the voluntary agreement by airlines to reduce the numbers of arriving passengers, large-scale contingency staff and facilities by the airport operator, as well as a massive training programme by UKBA to provide temporary immigration staff. Collectively, a great result was achieved.

There are always lessons to be understood from such a situation, but what a pleasure it is to write that, generally speaking, the preparations were both well-developed and well-implemented.

## 5. BAR UK News

### a) People on the move

We bid a fond farewell to those departing, and a warm welcome to their successors;

AIRLINE	WELCOME	FAREWELL
Air Seychelles	n/a as withdrawing services to Europe	Nick Yeadon
China Eastern	Bill Tao	Chris Zhou
Gulf Air	Rick Saggarr	Christine Vidos
Lufthansa	Dirk Schreier (acting GM)	Marianne Sammann
<b>ASSOCIATE</b>		
National Express	Relinquishing membership due budget constraints	Eleni Jordan

### b) BAR UK General Meetings

The first meeting in 2012 will take place on 24 February at the offices of Gates & Partners, who are generously hosting the event.

There are two themes – an update of legal and regulatory matters as they affect consumers and/or the industry, plus an Olympics preparation update by Heathrow Airport Ltd.

Two other meetings are scheduled as follows:

AGM / General Meeting #2 on 18 April, to be held at the Business Design Centre, Islington, London.

General Meeting #3 on 19 October, to be held at CAA House in Kingsway, London.

### c) Media exposure of BAR UK

Through the excellent work of KTA PR, the views and feedback of BAR UK have been publicised in a number of major media. Apart from several UK and overseas travel industry media, coverage included:

FT.Com Labour drops support for third Heathrow runway

<http://www.ft.com/cms/s/0/59410a1e-03d4-11e1-bbc5-00144feabdc0.html#axzz1hgHbeiEF>

Huffington Post Third Runway At Heathrow Policy Abandoned By Labour

[http://www.huffingtonpost.co.uk/2011/10/31/third-runway-at-heathrow-u-turn\\_n\\_1067213.html](http://www.huffingtonpost.co.uk/2011/10/31/third-runway-at-heathrow-u-turn_n_1067213.html)

Telegraph Labour drops backing for Heathrow third runway

<http://www.telegraph.co.uk/travel/travelnews/8860268/Labour-drops-backing-for-Heathrow-thirdrunway.html>

The Economist An argument that will not die down

<http://www.economist.com/blogs/gulliver/2011/11/heathrow>

Aviator.aero AIR PASSENGER DUTY ANNOUNCEMENT A HUGE BLOW TO UK BUSINESS

<http://www.aviator.aero/newswire/index.php/2011/11/air-passenger-duty-announcement-a-huge-blow-to-uk-business/>

Aviation Week U.K. Industry Condemns Planned Passenger Tax Increase

[http://www.aviationweek.com/aw/generic/story\\_generic.jsp?channel=aviationdaily&id=news/avd/2011/11/30/08.xml&headline=U.K.%20Industry%20Condemns%20Planned%20Passenger%20Tax%20Increase](http://www.aviationweek.com/aw/generic/story_generic.jsp?channel=aviationdaily&id=news/avd/2011/11/30/08.xml&headline=U.K.%20Industry%20Condemns%20Planned%20Passenger%20Tax%20Increase)

Aviator.aero CONSULTATION ON AIR PASSENGER DUTY A COMPLETE WASTE OF TIME  
<http://www.aviator.aero/newswire/index.php/2011/12/consultation-on-air-passenger-duty-a-complete-waste-of-time/>

Caribbean News Now! UK industry experts say Britain's APD consultation 'a waste of time'  
<http://www.caribbeannewsnow.com/headline-UK-industry-experts-say-Britain%27s-APD-consultation-%27a-waste-of-time%27-9069.html>

Sunday Times Letter to Editor re Thames Estuary airport proposals published in full.

---

The next BAR UK Newsletter will be published in March 2012