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**Mr Iain Osborne**  
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**United Kingdom**  
**E-mail: Barbara.PerataSmith@caa.co.uk**

*By e-mail and post*

**Re: Stansted Airport's market power**

Dear Iain,

In advance of the CAA's 27 March Stansted workshop, we wish to raise our preliminary concerns in relation to the CAA's initial views on Stansted's market power, published in January and February. The CAA has reached an erroneous conclusion that Stansted enjoys the least market power out of Heathrow, Gatwick and Stansted and that "*any position of substantial market power arises from the relative bargaining positions of the airport and airlines during a relatively narrow peak period.*" Ryanair has already furnished a wealth of evidence on the market power enjoyed by Stansted and, fundamentally, Stansted's pricing power and cost increases since 2007 apply not only at peak times but throughout the entire day.

Our preliminary comments are as follows:

### **1. Framework for assessing market power**

The CAA correctly identifies the two main considerations that ought to guide a market power assessment, namely the availability of alternatives and whether the threat to use those alternatives would constrain an airport's behaviour.

We note however that for the remainder of both your January summary and your February detailed assessment there is little or no explicit reference to these principles. Rather, there are references to other, often irrelevant, indicators, e.g. market shares. The CAA should focus its attention on the above two main considerations, the proper analysis of which clearly leads to a finding of absolute market power on the part of Stansted.

### **2. Passenger and airline choices**

The CAA claims that Stansted's share of the market "*is not particularly large*". That might be true if the market is defined to include LHR and LGW (which would be highly questionable), but since both of these airports are capacity constrained at key periods then this misleading market share calculation clearly fails to accurately determine Stansted's substantial market power.

The CAA also claims that Stansted “*competes with a very broad range of other airports*”, and that it “*can be viewed as operating in a European market for airline services*” but fails to advance any evidence to support this subjective claim. It is claimed (again without any evidence) that on the passenger-side Stansted competes with South East, East Anglia and Midlands airports. These are broad generalisations without any evidence or analysis. It is worrying that such loose language could lead to inaccurate conclusions.

### **3. Impact of airport ownership on assessing market power**

The CAA claims that Stansted’s market power will likely depend on “*..to whom the airport is sold by BAA*”. No explanation is given as to why that should be the case. If airlines have no good alternatives to Stansted, they cannot threaten to switch capacity, regardless of who owns Stansted, and hence the new owner of Stansted will continue to enjoy the same market power and bargaining leverage that BAA Stansted has exerted over recent years. There is therefore no basis for the CAA’s claim.

### **4. Role of competition policy as an alternative regulatory instrument**

There are a number of references to the use of competition law as an alternative to airport regulation. It is unclear what the CAA has in mind here, but, in any event, it is generally acknowledged that general competition laws are very ill-suited to controlling exploitative monopoly pricing.

### **5. Price levels and market power**

The CAA notes that “*peak capacity appears important to the airlines at Stansted, as it supports the efficient use of their aircraft, making them reluctant to reduce their use of peak capacity*”. The CAA goes on to claim that “*this, however, needs to be set against the apparent flexibility of their business models, which might enable switching to alternative airports*”. The CAA fails to explain, however, if there is such flexibility of business models, why then haven’t the airlines switched their peak capacity over recent years as the BAA Stansted monopoly doubled charges in 2007. Please now do so.

The CAA also makes a surprising and unsupported claim that Stansted’s prices “*appear comparable*” with other airports. No evidence is put forward to support this claim. Please explain which comparators have been used. This claim is contradicted by voluminous factual evidence presented by Ryanair. Secondly, a comparison between Stansted’s published charges and published charges of other airports is meaningless when the actual charges of those comparators will obviously be lower than the published charges. Thirdly, comparing Stansted to airports “*servicing major conurbations*” is fundamentally wrong for two reasons:

- i) Stansted is at best a tertiary airport for London; and
- ii) airports servicing major conurbations tend to be abusive monopolies engaged in excessive pricing practices.

The CAA then claims that “*it appears that any position of substantial market power arises from the relative bargaining positions of the airport and airlines during a relatively narrow peak period.*” This claim is totally undermined by the fact that Stansted’s pricing power and 100% cost increases since 2007 applied not just at peak times but at all times throughout the day. The CAA claims that “*the relevant strength of these positions might change over time and be affected by the potential ownership changes at the airport*” without any explanation or evidence to support this hypothetical claim.

The CAA claims that “At Stansted, the current focus is on the balance of bargaining power at peak times, where the airport might be able to raise prices and/or reduce service quality offered to passengers and airlines”. In fact there is no difference in Stansted’s behaviour and pricing between peak and off-peak times. The CAA’s claims have no evidence to support them. Please now provide us with this evidence.

The CAA wrongly dismisses the argument that the absence of switching in response to the large 2007 price increases shows market power on the part of Stansted. This economically flawed position is based on the false and erroneous claim that Stansted prices prior to 2007 were below the competitive level and that the increase was merely to bring Stansted’s prices towards the competitive level. However, the CAA provides no evidence to support this claim, other than a casual comparison with (published) prices at other monopoly airports. Furthermore, as the CC noted in its 2008 Q5 report on Stansted, airlines’ reactions to this price hike are a good natural experiment, and it would take fairly unusual conditions (a kink in the demand curve) to see so little demand response to the 2007 price doubling and yet a strong demand response to any further price rise.

## 6. Market shares

Whilst the CAA agreed with Ryanair’s suggested approach to assessing bargaining power, it then went on to focus on Stansted’s market share as if that could undermine the market power claims. However, once the CAA accepted the (obviously correct) proposition that bargaining power must depend on the ability of customers to have alternative options, market share calculations that include LHR and LGW in the denominator are not meaningful measures of Stansted market power since there is no credibility in a Ryanair threat to switch demand to either LHR and LGW.

## 7. Ability of Ryanair to switch capacity to serve other (non- Stansted) European demand at non-adjacent airports.

The CAA appears to believe that the flexibility of LCCs to redeploy aircraft to other airports and other routes provides an effective constraint on Stansted. Yet again no evidence is provided to support this claim. Equally the CAA are unable to explain why when Stansted doubled prices in 2007/08, Ryanair was unable to redeploy aircraft at peak times to other airports to constrain these monopolistic price increases. The CAA’s argument contradicts the Competition Commission’s conclusion (see Appendix B of the CC’s Stansted Q5 report). The CAA has either misunderstood that argument or deliberately ignored/mischaracterised it. The CAA’s comments on the RBB report on this point also reflect this misunderstanding. Fundamentally, had such claimed flexibility existed, Ryanair and other LCC’s would have switched capacity away from Stansted following the 2007 price increase.

The CAA’s claims that airlines can operate W routes in order to avoid basing aircraft at Stansted are equally misplaced in light of evidence of inefficiencies of such routes.

In summary, Stansted has significant market power, as confirmed by the Competition Commission. The only effective protection against this is a realistic price cap. We call on the CAA to revise its flawed and erroneous thinking and instead find - as the facts clearly show - that Stansted has significant market power at both peak and off peak times. We intend to provide further evidence to elaborate on the above points in the coming weeks.

Yours sincerely,



Juliusz Komorek

*Director of Legal & Regulatory Affairs*