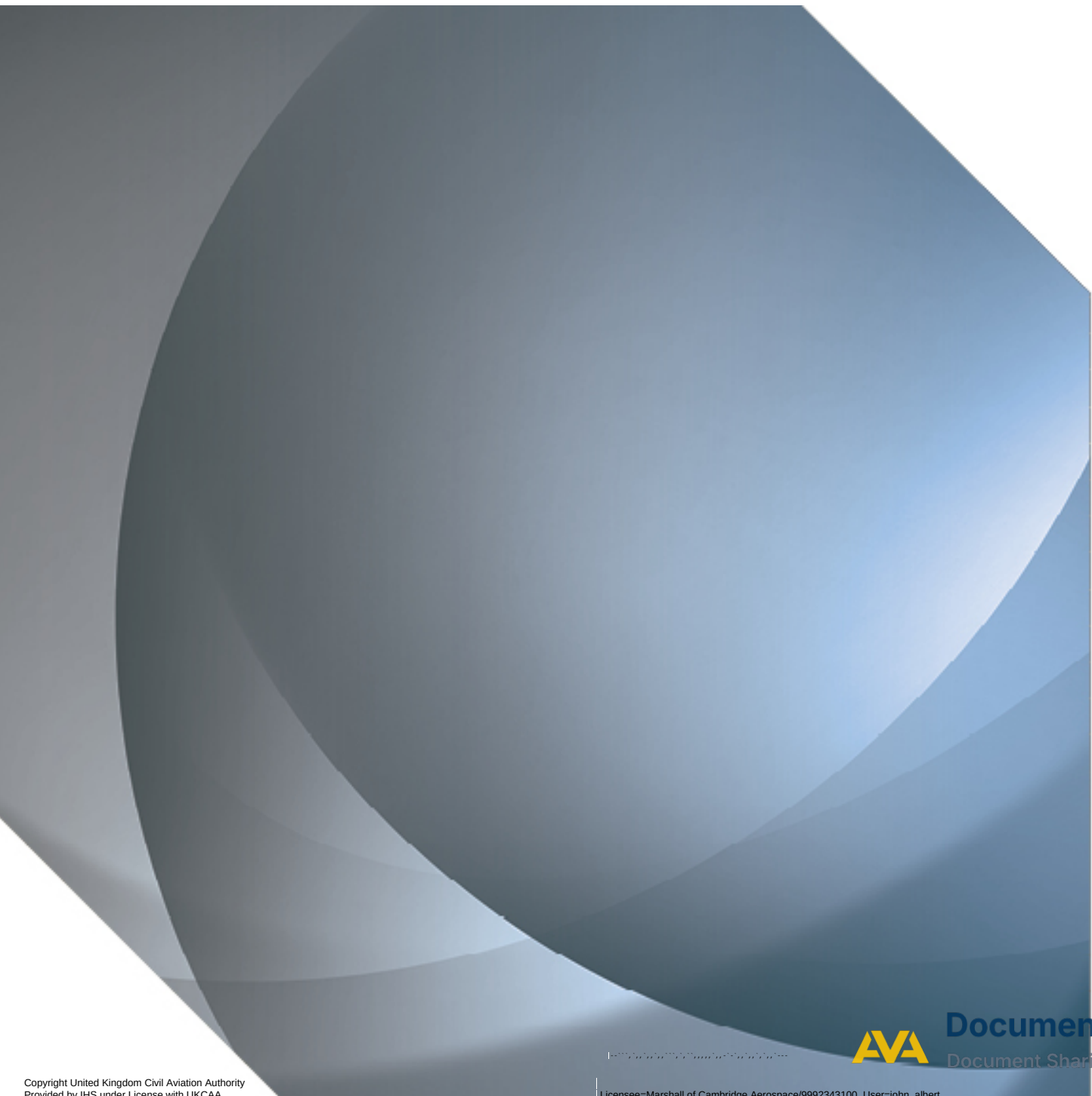


Guidance on the Application of the CAA's powers under the Airport Charges Regulations 2011: A Consultation

CAP 1290



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1. The Airport Charges Regulations 2011 (ACRs)¹ are secondary legislation which transpose the Airport Charges Directive (2009/12/EC)² so that it applies in the UK. They apply to all airports with more than 5 million passenger movements per year. There are currently nine such airports in the UK:
 - Heathrow;
 - Gatwick;
 - Manchester;
 - Stansted;
 - Luton;
 - Edinburgh;
 - Birmingham;
 - Glasgow; and
 - Bristol.
2. The ACRs set out certain obligations on airports and users with regard to exchanging information and on airports with regard to consultation on airport charges. The ACRs also set requirements relating to the differentiation of airport charges and the avoidance of discrimination. Since the repeal of Section 41 of the 1986 Airports Act, the ACRs are the main sector-specific legislation on this subject.
3. The CAA is the nominated “independent supervisory agency” under the ACRs. This means we are responsible for investigating complaints about breaches of the ACRs. If we find a breach, we have discretion over whether we issue a compliance order. A compliance order can require the airport to change its behaviour and award damages to those who have suffered loss because of the infringement. Whether we issue an order or not, those who consider they have suffered as the result of an infringement can take Court action for damages.

1 [The Airport Charges Regulations 2011](#).

2 [Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges](#).

4. In 2010 we produced an “emerging thinking” document³ in anticipation of the legislation. But we have not yet provided any formal guidance to stakeholders on the ACRs. This is because companies continued to submit such complaints under Section 41 rather than the ACRs. However, Section 41 was repealed with effect from April 2014.
5. We are, therefore, now consulting on draft guidance to inform stakeholders of what to do if they consider there has been a breach of the ACRs, and how we will handle complaints. It also clarifies the interface between the ACRs and our wider competition law powers. Our draft guidance is available on our website at www.caa.co.uk/CAP1291.
6. This document summarises the draft guidance document and mentions issues you might particularly want to consider in any response. You are not, however, restricted to commenting on these issues and we would welcome your views on any aspects of this draft guidance. Please can you send any responses to economicregulation@caa.co.uk no later than 30 June 2015.
7. We will publish responses on our website after the end of the consultation period. If there are parts of your response that you consider to be commercially confidential, please can you clearly mark them as such and send us a non-confidential version that we can publish.
8. If you would like to discuss any aspect of the draft guidance please can you contact Rod Gander at rod.gander@caa.co.uk or telephone 020 7453 6225.
9. We will take all responses received into account when producing our final guidance.

Our approach to the ACRs

General approach

10. In our view, promoting competition is usually the most effective way to improve outcomes for passengers and airport users. Our approach, therefore, in the draft guidance, seeks to give airports and users the confidence to reach commercially negotiated outcomes where these are mutually beneficial and do not discriminate between users.
11. In the draft guidance we remind dominant airports that they have a special responsibility to ensure that their conduct does not distort competition. Two of the airports subject to the ACRs (Heathrow and Gatwick) are regulated by economic licence, as they passed the market power test in the Civil Aviation Act 2012.

3 [Implementing the Airport Charges Directive in the UK - CAA Emerging Thinking](#)