

Consultation on issues affecting passengers' access to UK airports: a review of surface access

CAP 1364



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Contents

Contents.....	3
Executive summary	6
Background to the review.....	6
Scope of the review.....	8
Initial views.....	8
Next steps	11
Chapter 1.....	14
Introduction	14
Background	14
Scope of the review / terms of reference	14
The importance of surface access	15
Chapter 2.....	18
Policy and legal framework	18
Our statutory duties and strategic objectives.....	18
Regulatory considerations.....	18
Licensed airport operators.....	18
Unlicensed airport operators	20
Competition law considerations.....	20
Consumer law considerations	21
Information and transparency.....	21
Trading fairly	22
CAA12 information duties.....	22
Wider government policy objectives	22
Chapter 3.....	23

Initial findings from industry engagement	23
Introduction	23
Overarching initial findings	24
General comments	24
Market structure	25
Transparency of surface access products from a consumer perspective ...	26
Mode by mode characterisation	28
Short stay, drop-off and pick-up	28
Long stay and off-airport car parking operators.....	29
Buses and coaches	30
Taxi and minicabs	31
Car hire	32
Rail.....	33
Distribution channels	34
Passenger research on surface access information needs	36
When was the transport decision made?	37
Awareness of transport options at the time of booking	38
Chapter 4.....	40
Key issues for consultation.....	40
Market structure / market access	40
Overview	40
Assessing market power	41
Exclusivity	43
Discrimination.....	44
Initial conclusions on market structure	44
Transparency / consumer information.....	45
Overview	45

Distribution channels / price comparison websites	46
Initial conclusions on transparency	47
Chapter 5.....	49
Next steps and how to respond	49
Appendix A	53
Glossary	53

Executive summary

Background to the review

1. Surface access¹ to UK airports can account for a sizeable proportion of the cost of any air journey and forms a significant part of the aviation value chain. The CAA is reviewing this element of airport operations in order to better understand how effectively it is operating and serving the interests of consumers.
2. We are conducting this review under Section 64 of the Civil Aviation Act 2012, which requires the CAA to monitor services provided at airports. One of the reasons for carrying out this review is a commitment we gave in response to a submission to the Q6 review of Heathrow and Gatwick² from the Independent Airport Parking Association (IAPA).³
3. In addition, the CAA has had concurrent competition powers over airport operation services since 2013. We are therefore taking the opportunity in this review to draw attention to the existence of several previous private action competition cases.⁴ In a number of these, airport operators were found to have abused their dominant position⁵ in an upstream facilities market by adversely affecting competition in downstream markets. Some were found to have, for example, protected their own road access⁶

¹ The journeys passengers make in order to get to and from the airports to their ultimate point of origin or destination on the ground.

² The last periodic price control review of the airports finalised in 2014.

³ A non-confidential version of IAPA's submission is available at <http://webarchive.nationalarchives.gov.uk/+/https://www.caa.co.uk/docs/78/IAPAApr13.pdf/>

⁴ The cases are summarised in a separate discussion paper issued with this document: "A discussion of national and European Competition Case Law relevant to the Aviation Sector", available at www.caa.co.uk/cap1370.

⁵ A dominant position is a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by affording it the power to behave to an appreciable extent independently of its competitors, customers and ultimately of its consumers.

⁶ Road access includes all products and services provided to passengers to get to and from the airports by road such as parking, drop-off, taxis, buses, etc, but not by rail modes.

- products from competition or by extracting higher commissions from third party operators that have access to facilities at the airport.
4. We have also noted passenger interest in the 'hidden costs' of using airports and we received some complaints that they are not aware of various costs of accessing airports (drop-off fees, car parking cost, etc). We have also examined how parking products are distributed on-line.
 5. The CAA Consumer Panel⁷ has strongly encouraged our work in this area and have supported our aim of ensuring consumers have access to the widest possible range of surface access options. However, the Panel felt that our understanding of consumer needs and behaviour is not as well developed at this stage as our understanding of upstream market conditions. In the absence of consumer research that could have informed the CAA's engagement with the industry, the Panel have advised us to use this consultation to gather information that allows us to come to a more balanced view of the market as a whole. We are therefore keen to receive input from consumer groups, particularly those representing more vulnerable or disadvantaged consumers, who may have specific surface access requirements.
 6. The Panel also advised us that infrequent flyers, inbound (foreign) passengers and less engaged consumers, including those without easy access to the internet, could be unduly disadvantaged by a lack of information. The Panel also suggested the CAA should examine the scope for some common principles to be developed while also taking into account the specific situation at individual airports, particularly those serving more isolated regions. They noted that in developing principles, the CAA should seek to learn from the success (or otherwise) of similar self-regulatory approaches in other sectors.

⁷ The panel has internal independence from the CAA and acts as a 'critical friend', scrutinising and challenging all of the CAA's work. The main aim of the panel is to be a champion for the interests of consumers. Further information on the Panel's views on this issue can be found in the minutes from the Panel's meetings, which are published on the CAA's website at www.caa.co.uk/consumerpanel.

Scope of the review

7. Surface access covers a range of modes: private car, train, cycle, private hire vehicles and taxis. This review is concentrated primarily on road and forecourt access. We have focused it around two main topics.
 - The first is to understand the market structure for surface access, in particular how competitive conditions for road and forecourt access at individual UK airports affect outcomes to consumers. This includes interactions between airport operators and surface transport providers such as independent car parking operators, taxi/minicab operators, bus operators and car hire operators.
 - Our second area of interest is transparency in terms of the extent to which consumers are well informed about the options they have to access UK airports and the charges they face. This includes how surface access products are distributed.
8. To date, the review has been based on discussions with some key stakeholders in this sector: airport operators, consumer organisations and representatives of independent surface access operators. In this document, we present our initial conclusions. We are now keen to receive views and further information from all stakeholders and from anyone with an interest in this sector.

Initial views

9. Our initial views, based on these early discussions are that, in general, the sector appears to be a dynamic one, with a variety of parties active in providing surface access services of different types to consumers. These different modes, to a varying extent, compete with each other. However, the range of product choices available to consumers varies by airport. Passengers at larger airports generally have more options whereas at smaller airports with poorer transport links the choice is more limited.
10. It also appears that a key driver of passenger choice is the time it takes to get to airports and the cost and so consumers are actively engaged in this aspect of the market. According to a previous survey commissioned by the

CAA passengers, particularly those who reside in the UK or fly frequently, state that they are broadly aware of the options they have to access UK airports. However, there is some evidence that passengers are not always able to find the best service at the best cost that suits their needs. Also, some categories of passengers may not be in a position to make fully informed decisions.

11. We also found that airport operators and surface access operators engage meaningfully in commercial negotiations with each other. However, as is often the case in the commercial world, there are areas of tension and disputes.
12. Furthermore, the industry seems to be aware that it needs to comply with competition law in view of the private action cases in recent years where airport operators were found to have breached competition law. Stakeholders have told us that those decisions, in some circumstances, have had a positive deterrent effect on how airport operators treat independent surface access operators.
13. That said, we have identified some aspects of this sector that may still have the potential to give rise to risks to consumers in terms of choice and value for money.
 - Airport operators tend to control a large proportion of the required facilities needed to run surface access operations, both at the forecourt and in surrounding areas (such as land suitable for car parks, surface transport interchanges, etc.). Airport operators also provide many surface access products directly to consumers, often in competition with independent operators that require access to the airport's facilities. Airport operators are therefore active in both the provision of facilities (upstream) and in the service itself (downstream).
 - Surface access is one of the few areas where airport operators have a direct commercial relationship with consumers. For most other aspects there is an intermediary in the form of the airline, or, for example, a retail outlet between the airport and the consumer. This may serve to strengthen the position of the airport since airlines and retailers are more likely to have bargaining power than individual passengers who do not engage in commercial negotiations with airport operators.

- Surface access revenues, as for other commercial revenues generated by airport operators, are an important part of airport operators' overall revenues. These may help keeping airport charges (paid by airlines) low, potentially boosting the connectivity at the airport and, depending on the extent to which reductions in airport charges are passed on to passengers, lower passenger air fares. Depending on the strength of this mechanism, it may be that passengers may or may not be indifferent on whether they pay for airport services through their airfare or through the price of their surface access products.
- In terms of transparency to consumers, even though passengers state that they are broadly aware of the options they have, there are some instances where the difference in costs or service quality may not be totally clear to passengers. Some stakeholders considered that the way premium services are marketed and distributed at airports means that passengers often purchase more expensive services without being aware that there are cheaper alternatives for similar services. This could be particularly true in the case of those passengers that use the airport infrequently, such as inbound (foreign) passengers. However, we are unsure about the *level* of awareness that passengers have. There may still be scope for substantial consumer detriment if passengers not being fully aware of their options (the "unknown unknowns") or from "behavioural" (rather than rational) decisions made by passengers. This is an area where we welcome evidence from stakeholders and views on whether it merits further research.
- Finally, our review has highlighted the prominent role played by online intermediaries for surface access services. As well as airport operators and independent operators selling their own services directly to consumers online, there are also more dedicated online distributors which operate on a commission basis. Products are also listed on airlines' websites. Online sales channels have, in general, been the subject of several recent investigations by the CMA and other European competition authorities⁸ and operators should ensure that the nature of these arrangements do not risk infringing competition law.

14. A more detailed account of our initial findings is given in Chapter 3 (below).

⁸ See for example, online booking sector investigation (<https://www.gov.uk/cma-cases/hotel-online-booking-sector-investigation>) and private motor insurance investigation (<https://www.gov.uk/cma-cases/private-motor-insurance-market-investigation>).

Next steps

15. The CAA is already conducting one investigation into a possible infringement of competition law relating to surface access.⁹ We would highlight the need for all providers and distributors of surface access products, including airport operators, to ensure their contracts and behaviours do not infringe competition law. In particular airports should give special consideration to contract clauses providing for, for example, exclusivity, Most Favoured Nation and Retail Price Maintenance (Price Parity) clauses.¹⁰ They should also consider carefully any arrangements for the sharing of, for example, price and inventory information as such exchanges can be anti-competitive practice in certain circumstances.
16. In addition, we consider that airport operators, given their upstream position as a provider of surface access facilities, need to better demonstrate that they have considered their legal responsibilities under competition and consumer law. We are therefore requesting airport operators, *as part of their submission to this consultation*, to develop and communicate good practice principles for access to their surface access facilities which reflect previous jurisprudence in the sector. These principles may not be the same at all airports since each has a different set of conditions in which it operates. However, we expect airport operators to deal with the following questions.

Which surface access facilities from the airport's portfolio of assets are made available and their attitude to the development of facilities outside the airport perimeter.

⁹ See case opening notice, available at <http://www.caa.co.uk/Commercial-industry/Airports/Economic-regulation/Competition-policy/Notice-of-investigation-under-the-Competition-Act-1998/>

¹⁰ Most Favoured Nation clauses are those provisions in which a seller agrees to give the buyer the best terms it makes available to any other buyer; Retail Price Maintenance clauses are those in which the provider of a product and its distributors (that earn a commission for doing so) agree that the distributors will sell the provider's product at certain prices.

How they make available facilities that can be used by surface access operators and an explanation of any restrictions to the range of operators or the type of services that can be operated at the airport.

How airport operators derive charges for the use of facilities by surface access providers and to explain whether and how these charges relate to costs or any other relevant factors. In particular, airports should explain if these lead to differentiation between providers of surface access products or between segments of consumers. Particular attention should be provided to areas where airport operators themselves compete with independent surface access operators.

How airport operators consult with users on general charging principles and structures of airport services (access to facilities at or near the forecourt) required by surface access operators and how they provide relevant information on the costs of providing such services.

The extent of any agreements with other surface access operators and with distributors regarding the sharing of pricing information, the provision of information on costs, capacity management or any other practices and how they ensure these do not allow undue coordination among competitors.

Their efforts to ensure that consumers have access to information about all options to get to and from the airport at the time they need to make informed choices (both on the airport operators' websites and on onward travel kiosks) and, insofar as it is the airport operators' ability to influence, those options are presented in a neutral and transparent way.

Details of surface access options that are available at no charge to consumers that allow for the drop-off and pick-up of passengers.

17. We would also welcome general comments from all stakeholders on the review so far. Respondents are welcome to give their views on any aspect,

but the particular questions on which we would welcome views are as follows.

- a) Have we identified the key issues on market structure within the scope of this review?
 - b) Have you any views and/or evidence on the market position of airport operators in the provision of airport services used to access the airport?
 - c) Have you any evidence or views on how well informed consumers are of their airport surface access options and on what is important to passengers in accessing an airport? Is this an area that merits further research?
 - d) Have we identified the key issues related to the distribution of airport car parking? Do you have any views on what, if anything, would improve outcomes to consumers?
 - e) Have you any views and/or evidence on how the information set that passengers have, when choosing between airport surface access products, could be improved for consumers?
 - f) Have you any views on our proposed way forward and, in particular, the development of good practice principles by airport operators?
18. Once we have seen airport operators' and other stakeholders' responses to this consultation based on the above questions we will be able to assess whether we need to take any further action, either independently or in coordination with the Competition and Markets Authority. We could, for example, make use of our formal evidence gathering powers in the context of a Market Study under the Enterprise Act 2002.
19. This consultation runs until 22 April 2016 during which time we would welcome submissions from all industry participants. These may be either in written form or we are happy to host meetings to discuss issues in detail with industry or consumer representative bodies. Please provide any written submissions to economicregulation@caa.co.uk by 22 April 2016.
20. If you would like to discuss any aspect of the review please can you contact Pedro Lino Pinto at pedro.pinto@caa.co.uk.

Chapter 1

Introduction

Background

- 1.1 The CAA is both the economic regulator and a designated competition authority with respect to airport operation services in the UK. Improving choice, value and fair treatment for consumers is one of the CAA's core strategic objectives.
- 1.2 Surface access to airports is a key part of the consumer experience of air travel, so any issues passengers face in these areas when using UK airports are of considerable importance. Over the past months we have been conducting a review of this sector to understand more about the passenger experience of travelling to and from UK airports. We are now reporting, and consulting on some of our initial findings.
- 1.3 This sector review has a number of objectives:
- to understand the sector: what is working well and not so well from a consumer perspective;
 - to communicate how we view current competitive conditions in this sector and how we expect this sector to evolve; and
 - to encourage the development of principles for good practice which, in our view, could make this sector work better for the interests of consumers.

Scope of the review / terms of reference

- 1.4 The review is particularly focussed on the competitive conditions for road access to UK airports. This includes interactions between airport operators and road access providers (e.g. independent car parking operators, taxi/minicab operators, bus operators etc.).
- 1.5 The review also assesses availability of information to guide consumers on how to get to and from the airport, and the options available.
- 1.6 Conversely, we do not focus on:

- aeronautical services (airport operation services (AOS) provided to airlines or groundhandling agents operating on behalf of airlines, for which passengers are not charged directly but are typically included in the ticket price);
- retail services provided at the airport (shops, bureaux de change, restaurants and cafeteria, etc.), including the provision of airport facilities to those that provide such retail services, as these, although important, are not an integral part of the passenger journey; and
- rail services operating to and from UK airports because, while they may be relevant in providing competitive constraints to access by road, the wider government and regulatory intervention in that sector somewhat determines the potential for competition to develop and the airport operators' behaviour. However, we cover areas to do with the provision of information about rail services to consumers.

The importance of surface access

1.7 Airport surface access is an important part of the passenger journey and passengers can spend fairly large amounts getting to/from the airport. Figure 1 provides some examples of parking costs, taxi and rail journeys.

Figure 1: Examples of costs incurred by passengers in accessing airports

	1h / 2h short stay	4 / 7 days long-stay	Mini-cab to City Centre	Rail to City Centre (return)
Heathrow	£6 / £10	£56 / £90	£30	£20
Gatwick	£6 / £10	£51 / £75	£45	£17
Manchester	£5.2 / £8.8	£35 / £46	£24	£4
Stansted	£6 / £11	£36 / £36	£56	£33
Birmingham	£4 / £8	£32 / £46	£20	£5

Source: CAA research (minicab.com, train operating companies, airport operator websites)

1.8 These amounts are not insignificant when compared to other elements of the passenger journey. For example:

- the average Ryanair one-way fare was around £35 excluding ancillary revenues, such as food on board and other options, and over £46 if we include ancillary revenues¹¹;
- the average easyJet one-way revenue per passenger was £70 (including ancillary revenues)¹²;
- Gatwick's aeronautical revenue¹³ was around £9 per passenger in the year to March 2015.¹⁴

1.9 Typically, passengers have a number of options to get to the airport both within modes (e.g. what taxi firm to use) and between modes (e.g. taking the car or going by train). However, car journeys are the predominant way to access UK airports accounting for about two thirds of journeys, with a broadly even split between drop-off, car parking at the airport and taxi. Public transport is mainly used for access to/from city centres but this is not considered convenient for some passengers (e.g. those travelling with large amounts of luggage). Public transport accounts for a larger share at London airports (that tend to have better public transport links) than at regional airports where it plays a less significant role. (see Figure 2)

1.10 Different passengers have different needs and preferences and not all modes will be perfect substitutes. Therefore, a situation where there is more than one competing provider of each mode, or at least, the possibility of new entry would provide more choice to passengers compared to a situation where passengers have to rely solely on competition between modes.

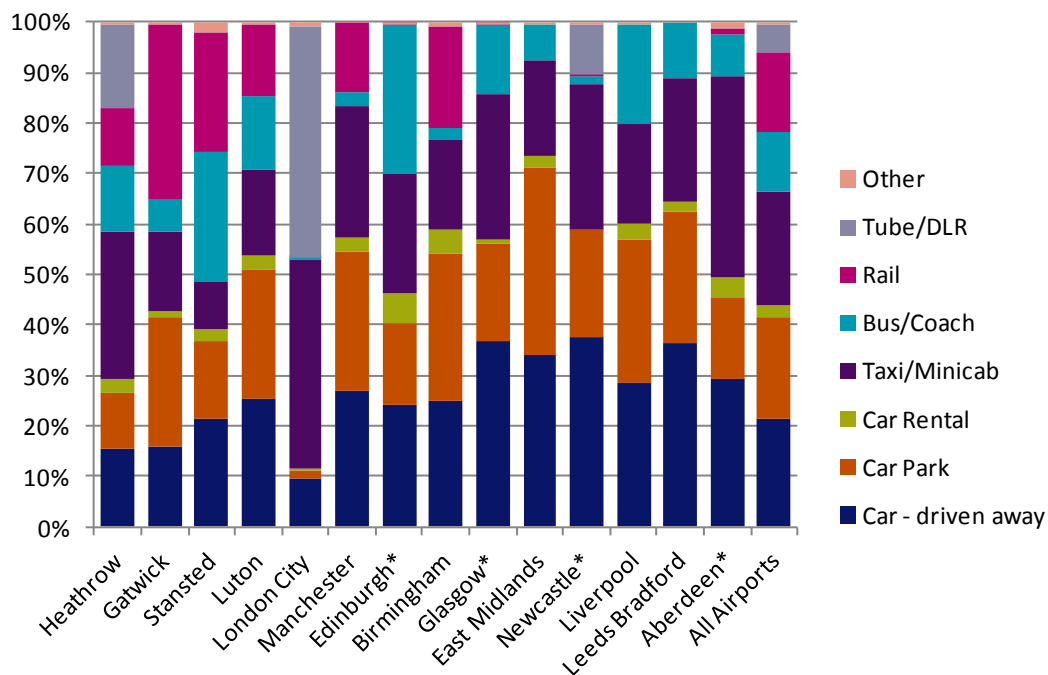
¹¹ Source: Ryanair financial accounts (year to 31 Mar 2015), available at http://investor.ryanair.com/wp-content/uploads/2015/05/FY-2015-AnnualInterm_Results-Results.pdf, when an exchange rate of 1£=€1.35 for the year is used.

¹² Source: easyJet financial accounts (year 30 September 2014)

¹³ The amount an airport charges to an airline for using the airport.

¹⁴ Source: Gatwick's financial statements, year to 31 March 2015, available at https://www.gatwickairport.com/globalassets/documents/business_and_community/investor_relations/year_end_2015/gatwick-airport-limited-financial-statements-31-march-2015.pdf

Figure 2: Surface access modal shares at large UK airports



Source: CAA Passenger Survey, 2013 (with*), 2014

Note: the chart is representative of journeys by passengers to the airport – not necessarily from the airport.

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- Chapter 2 – Policy and legal framework
- Chapter 3 – Initial findings from industry engagement
- Chapter 4 – Analysis of key issues
- Chapter 5 – Possible ways forward
- Chapter 6 – How to respond and next steps