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Open letter to airport operators and their relevant business partners following CMA's airport car parking investigation.

CMA's airport car parking investigation

1. The Competition and Markets Authority (CMA) has recently announced its decision to issue a Statement of Objections in a competition case relating to car parking at airports.¹ The CMA provisionally found that the parties in this case (Heathrow airport² and Arora Group³) infringed competition law⁴ by participating in a signed, written agreement under which Arora agreed to a tenant's covenant which precluded it from charging customers, that were not guests at the hotel but wished to use the T5 Sofitel hotel car park, rates lower than those charged at Heathrow airport's car parks.
2. Heathrow airport agreed to settle the case – i.e. it accepted that it had infringed competition law and to pay a £1.6m penalty. The CMA did not propose to impose a financial penalty on the Arora Group. This is because the Arora Group first came forward with relevant information that led to the opening of this investigation and, as such, has been granted immunity from

¹ This announcement is available at <https://www.gov.uk/cma-cases/conduct-in-the-transport-sector-facilities-at-airports>. The case page is available at <https://www.gov.uk/cma-cases/conduct-in-the-transport-sector-facilities-at-airports>.

² Heathrow Airport Limited ('HAL') and its parent Heathrow Airport Holdings Limited

³ Heathrow T5 Hotel Limited ('HTHL'), and its parent Arora Holdings Limited ('AHL') (a holding company within the Arora group)

⁴ More specifically, the prohibition in section 2 of the Competition Act 1998 (the Chapter I prohibition).

penalties, in so far as it continues to fulfil the conditions of its leniency agreement with the CMA and the conditions set out in the CMA's leniency policy.⁵

3. The CMA has sent warning letters to other airports and hotel operators warning against similar anti-competitive agreements.
4. This investigation is another reminder to the airport sector and their counterparties of the need to comply with competition law. It highlights that it is not acceptable for agreements (including land agreements and leasing arrangements) to contain anti-competitive pricing restrictions or other anti-competitive restrictions.
5. Even though airport operators may need to oversee and manage certain activities by third-parties at airports for safety, security and other important operational reasons, this decision highlights that airport operators must be careful not to impose restrictions that might undermine competition without any objective justification. Minimum pricing restrictions, specifically, are very unlikely to be a justifiable means that airport operators can resort to, as part of ensuring that airport operations are run efficiently.
6. Following the CMA's announcement, the CAA has written this open letter to draw industry's attention to the implications of this case.

CAA's concurrent competition functions

7. The CAA is a concurrent competition authority in relation to Airport Operation and Air Traffic Services. This means that both the CAA and the CMA can investigate suspected anticompetitive behaviour in these sectors. In this instance, the CAA and the CMA agreed that the CMA would be best placed to lead on the investigation with the CAA's assistance.⁶ The CAA assisted the CMA with the investigation, including by seconding a staff member to the CMA and advising CMA's case team at key stages of the process. This outcome is a good example of competition authorities working together to

⁵ To continue to benefit from leniency, Arora is expected to continue to cooperate with the conditions of its leniency agreement with the CMA and the CMA leniency policy.

⁶ Together with the other sector regulators and the CMA, we are a member of the UK Competition Network (UKCN). The UKCN works to ensure consistency of application of competition law in the regulated sectors to support and enable competition.