

NON-CONFIDENTIAL  
VERSION



Stansted Airport Price Control Review Q5

Submission by British Airways World Cargo to the  
Competition Commission

17 June 2008

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## 1. INTRODUCTION AND SUMMARY

- 1.1 As noted in our letter of 23<sup>rd</sup> May 2008<sup>1</sup>, British Airways World Cargo (BAWC) considers that BAA Stansted Airport Limited (STAL) has structured its airport charges in a way that unduly discriminates against large freighter services.
- 1.2 We believe this is an abuse of a dominant position for freighter services in the South East that Stansted enjoys as a result of the Traffic Distribution Rules (TDRs).
- 1.3 We also believe that Stansted has breached condition 2 of the CAA's Price Control condition of February 2003<sup>2</sup> under which charges for non-passenger flights are required to be no higher than those for equivalent passenger flights. This is because in practice the only aircraft that are regularly subjected to the disputed rates are those used as freighters.
- 1.4 Income from freighter services is not subject to any other regulatory controls as it was removed from the price cap in 2003.
- 1.5 By levying charges which discriminate unduly against large freighter services Stansted has been pursuing a course of conduct which operates (or maybe expected to operate) against the public interest within the meaning of Section 43 of the Airports Act 1986.
- 1.6 The issue of the TDRs is also relevant to the CC's inquiry into the airports market. We understand that the CC is working on this inquiry in parallel with the BAA Airports market investigation.
- 1.7 This submission sets out our arguments in detail – pursuant to paragraph 79 of the CC's Issues Statement<sup>3</sup>.

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<sup>1</sup> British Airways World Cargo letter to the Competition Commission Stansted Price Control Review 23<sup>rd</sup> May 2008.

<sup>2</sup> CAA Decision on the Economic Regulation of BAA London Airports (Heathrow, Gatwick and Stansted) 2003-2008 – February 2003, p.133, Annex 9.3, condition 2.

<sup>3</sup> Competition Commission Inquiry into airport charges at Stansted Airport – Issues Statement, para. 79.

## 2. TRAFFIC DISTRIBUTION RULES

- 2.1 The current TDRs, introduced by the Department for Transport in the mid-1980's, exclude new cargo freighter operators from Heathrow and Gatwick at peak times (which cover most of the operating day).
- 2.2 Airports that compete with Stansted for cargo operations are poor substitutes for BAWC for the following reasons:
- i) Luton – the runway length is too short to support B747 freighter operations.
  - ii) Manston, Kent – the airport is located further from Heathrow and Gatwick than Stansted<sup>4</sup>.
  - iii) Nottingham East Midlands – the airport is located further from Heathrow and Gatwick than Stansted<sup>5</sup>.
- 2.3 Stansted thus has a dominant position on new cargo freighter operations in the South East.
- 2.4 This allows Stansted to adopt an uncompetitive pricing structure that unfairly penalises cargo airlines operating large long-haul aircraft. These airlines have no recourse to the market to seek a more competitive offering. This is because the costs would have to be significantly lower than at other airports in order to offset the structural disadvantages of these alternatives such as location. BAA/STAL have therefore taken advantage of this situation with discriminatory pricing. We discuss this further in Section 3. BA urges the CC to look at the effect of the TDRs combined with BAA/STAL's behaviour in relation to pricing at Stansted.
- 2.5 As a separate - but related – issue, we believe there is a case for removal or amendment of the TDRs to allow new cargo operations at least at Gatwick as well as at Stansted.
- 2.6 The TDRs were last reviewed in 1991 since when the size and shape of the UK aviation market has changed considerably. At that time Stansted had a small operation compared to Heathrow and Gatwick as shown in Table 2.1.

**Table 2.1**  
**Air Traffic Movements at London airports, 1990-2007**  
ATM's in 000's

Airport	1990	1995	2000	2006	2007
Stansted	24	66	147	190	192
Gatwick	189	193	253	254	259
Heathrow	368	421	460	471	476

Source: CAA Airport Statistics<sup>6</sup>

- 2.7 By 2007 Stansted's operation had grown significantly. It is now the third largest airport in the UK and is pre-dominantly used by short-haul no-frills

<sup>4</sup> Freight is handled at BA's freight centres at Heathrow and Gatwick and close contact is needed with the major freight forwarders located near Heathrow. Therefore road transport costs and time to/from Heathrow and Gatwick is a major issue.

<sup>5</sup> See footnote 4.

<sup>6</sup> CAA website - <http://www.caa.co.uk/default.aspx?catid=80&pagetype=88&pageid=3&sglid=3>

carriers such as Ryanair and easyJet. Stansted is also the UK's second biggest cargo airport.

- 2.8 Stansted has been approaching its capacity limit for several years and in 2003 the Department for Transport recommended that a second runway be built to increase capacity and to be operational from 2011.
- 2.9 Under the Bermuda II Treaty regulating the air traffic permitted to operate between the UK and the USA, Gatwick had a specific role in supplying capacity to airlines that could not secure and operate slots at Heathrow. However, under the EU-US "Open Skies" agreement this special role for Gatwick ceased and UK-US traffic has moved from Gatwick to Heathrow freeing up capacity.
- 2.10 It is no longer evident why TDRs should continue to exclude freighter operators from Gatwick since capacity constraints are now similar at both Gatwick and Stansted. The TDRs distort the cargo market by effectively limiting freighters (other than those with long standing historic slots) to Stansted.
- 2.11 [X]
- 2.12 However, BAA Gatwick has not indicated a willingness to consider applying to review or amend the existing TDR's as they currently stand. Their position is that additional cargo services should not be permitted at Gatwick.
- 2.13 BA have communicated to STAL that during 2004/05 a competitive tender reviewing our options for the United Kingdom base for our freighter operation was undertaken. Although BA opted to remain at Stansted this was based on the switching costs of moving from Stansted and not the costs of operation at Stansted itself. BA told STAL that:
- "In fact, STAL's airport charges, even factoring in the current level of discounts, was highly unattractive when compared to its competitors...BA was disappointed with STAL's lack of innovation and willingness to deviate from published charging structures and process in order to provide BA with a more attractive proposition".<sup>7</sup>
- 2.14 [X]
- 2.15 BAWC's letter to the CC Stansted Price Control Review<sup>8</sup> outlines the effects of TDRs on our cargo operations at Stansted and in the South East. We also consider that the TDRs have allowed BAA to under-invest in large cargo infrastructure at Gatwick, to the detriment of BAWC and other cargo operators. Further details are included in Annex B.
- 2.16 BAWC recognises that the CC could only recommend that the TDRs be amended or removed under the terms of the BAA Market investigation (and not the Stansted Price Control Review) and we urge the CC to consider this issue further in that context.

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<sup>7</sup> BA Procurement letter to STAL Re: 2006/07 Airport Charges 30<sup>th</sup> December 2005

<sup>8</sup> BAWC letter to the Competition Commission Stansted Price Review, 23<sup>rd</sup> May 2008

### 3. STANSTED PRICING

- 3.1 BA participates annually in the STAL Airport Charges Consultation. Throughout Q4 (2003-2009) BA has maintained its position that STAL's pricing structure disproportionately penalises the operators of large long-haul aircraft, in particular those of freighter operators.
- 3.2 The Q4 Stansted price cap was RPI +0. Historically Stansted has not priced up to the cap and STAL has been able to charge increases over and above RPI in real price terms during Q4. Since the end of 2006/07 STAL has also unwound the discounts of Stansted operators. Price increases for 2008/09 now bring STAL pricing effectively in line with the price cap.

#### Landing Charges

- 3.3 Stansted landing charges are based on the weight of aircraft as at Heathrow and Gatwick. There are three weight bands:

- i) <16 metric tonnes
- ii) >16mt to <50mt
- iii) >50mt

However, Stansted has an additional weight band for aircraft >250mt. Analysis carried out by BA shows that this weight band in particular captures large long-haul aircraft, such as Boeing 747's, which at Stansted are only used by freight operators<sup>9</sup>.

- 3.4 In addition, Stansted does not have off-peak landing charges for the highest weight band of >250mt. It does however operate off-peak charging for all other weight bands. At Stansted peak is April-October and off-peak is November to March.

#### Parking Charges

- 3.5 Stansted parking charges have two elements. The first "fixed" element is time. The second "variable" element is weight. The parking charges at Stansted are heavily biased toward the weight element again, capturing large long-haul aircraft that are particularly used at Stansted by freighters.

#### British Airways position

- 3.6 BA considers that by virtue of the structure and application of landing and parking charges that STAL is unfairly discriminating against wide-bodied long-haul aircraft including BAWC freighters (based at Stansted due to the TDRs).
- 3.7 We do not believe that the differential treatment of aircraft in the >250mt category is objectively justified. Table 3.2 shows STAL's peak and off-peak landing charges structure (based on Chapter 3 Base charges).
- 3.8 As the off-peak example shows the differential between the lower three weight bands is between 23-24%. However the differential between the two upper weight bands is in excess of 200%. In effect the operator of a

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<sup>9</sup> And by a very few aircraft diverted from other airports for operational/safety reasons (five Boeing 747's in 2007 – source: BA analysis of Eurostat data for Stansted airport, see Appendix A).

large long-haul freighter aircraft is paying three times the charge that an aircraft operator in the >55mt weight band pays.

**Table 3.2**  
**Comparative STAL Landing Charge Rates**  
2008/09 tariff

Weight Band	Peak Charges		Off-Peak Charges	
	Landing Charge	Percentage Difference	Landing Charge	Percentage Difference
<16mt	£111.65		£100.40	
>16mt to <55mt	£166.90	+ 49.48%	£123.90	+ 23.40%
>55mt to <250mt	£272.80	+ 63.45%	£153.55	+ 23.93%
>250mt	£470.00	+ 72.29%	£470.00	+ 206.08%

Source: BA Procurement

3.9 STAL has maintained its common-rated landing charge for >250mt aircraft in peak and off-peak periods. For all other weight categories there is peak and off-peak charging. BA believes that STAL should be keen to incentivise freighter operators, especially those using wide-body aircraft to operate in the off-peak period, as it does for operators of passenger aircraft. BA has continued to ask STAL to introduce a lower charge for off-peak landings. This could help to release valuable peak landing slots.

3.10 BA considers that the bias in parking charges toward the "variable" weight element penalises airlines that use larger aircraft. This affects cargo airlines such as BAWC who use aircraft such as the Boeing 747. The overwhelming majority of Stansted traffic is of the short-haul "no-frills"

**Table 3.3**  
**Comparison of Stansted and Gatwick user charges for a747-400f**  
2008 prices

<b>Stansted Assumptions:</b>		<b>Gatwick Assumptions</b>	
747-400F with MTOW of 397T		747-400F with MTOW of 397T	
747-400F is categorised as Chapter 3 Base		747-400F is categorised as Chapter 3 Base	
Average 46 Rotations per month		Average 46 Rotations per month	
No difference between peak and off peak at STN		Taken a mid point for peak/off peak landing	
Average 4 hours on stand per rotation		Average 4 hours on stand per rotation	
	<b>STN</b>		<b>LGW</b>
Landing Fee (Chapter 3 base)	£470		£375
ANS Charge (per landing)	£498		£385
Aircraft Parking (per 15min block)	£2.87		£4.77
Variable Parking Charge (per tonne per 15 min)	£0.18		£0.07
<b><u>Average monthly Cost</u></b>			
Landing Fees (46 rotations @ £470)	<b>£21620</b>	(46 rotations @ £375)	<b>£17250</b>
ANS Charge (46 rotations @ £498)	<b>£22908</b>	(46 rotations @ £385)	<b>£17710</b>
Parking Charge (46 rotations @ 4 hours)	<b>£54707</b>	(46 rotations @ 4 hours)	<b>£23964</b>
<b>Total per month:</b>	<b>£99235</b>		<b>£58924</b>

Source: BA World Cargo

carrier-type that operates small aircraft such as the Boeing 737 and Airbus 320. Table 3.3 shows how the “variable” weight element makes Stansted more expensive to operate from.

- 3.11 The key element in the parking charge is the fee “per tonne per 15 minutes”. At Gatwick this fee is set at £0.07 whereas Stansted has a far higher rate of £0.18. The effect this has on the total parking charge is significant. Assuming a 747 operating 46 rotations table 3.3 shows that an aircraft based at Gatwick would incur costs of £23,964 per month. The same aircraft at Stansted would be charged £54,707, an increase of 128% over the equivalent charge at Gatwick.
- 3.12 BA has repeatedly asked STAL to review their pricing structure so as to reduce the adverse effect that the “per tonne per 15 minutes” charge has on larger aircraft. STAL have not changed the structure of parking fees to date.

### **Stansted Airport Limited arguments**

- 3.13 STAL have repeatedly refuted BA’s position during the Airport Charges Consultations. Their main arguments are as follows:
- i) Most European airports have per tonne landing charges and there is an additional weight band compared to Heathrow and Gatwick because runway demand does not exceed supply at Stansted. The charge reflects the additional use of airfield infrastructure and the increased handling costs of larger aircraft. STAL do not believe the >250mt weight band discriminates against cargo aircraft as it applies to both passenger and cargo operators.
  - ii) The peak and off-peak structure at Stansted is seasonal. The demand within the >250mt weight band is relatively unaffected by time of year, therefore it is reasonable to charge these aircraft at the same level throughout the year.
  - iii) Stansted parking charges have a greater emphasis on weight as a proxy for the amount of airfield parking required. At Stansted demand for parking is lower than at Heathrow or Gatwick so it is appropriate to gear the charges to amount of space used as opposed to time parked (as at Heathrow and Gatwick).
- 3.14 In relation to argument (i), runway capacity has been an issue at Stansted at peak times. The Government’s 2003 recommendation that a second runway should be built at Stansted was borne out of runway demand approaching capacity and being forecast to exceed it. The airport is also fully co-ordinated under the EU slot regulations.
- 3.15 Further to argument (i), we do not believe the landing charges for >250mt aircraft objectively relate to additional use of the airfield or handling costs. BAA should be required to demonstrate this.
- 3.16 BAA’s argument that the band applies to both passenger and cargo operators is not true in practice. The mix of aircraft using Stansted is key to understanding the effects of pricing on different operators. In Summer 2007 93% of Stansted ATM’s were flown by the small short-haul aircraft

typically operated by “no-frills” carriers such as Ryanair and easyJet<sup>10</sup>. Currently the largest passenger aircraft being flown to Stansted are the A330 by Cyprus Airways and the B767 by American Airlines<sup>11</sup>. Both aircraft would fall into the >55mt to <250mt weight band.

- 3.17 The only aircraft that would fall into the >250mt weight band are the B747 and the An-124. In 2007 the B747 accounted for 1,421 Cargo ATM's and the An-124 50 Cargo ATM's<sup>12</sup>. Only 5 Passenger ATM's were flown by a B747 in 2007 – almost certainly diversions from other airports (see footnote 9). The >250mt weight band typically only affects cargo operators. BAA asserts that the charge is not discriminatory as it applies to both cargo and passenger operators. However, this is not the case as the only operators of aircraft large enough to fall into that category at Stansted are cargo airlines.
- 3.18 Of the 191,520 ATM's at Stansted in 2007 wide-bodied aircraft operated 7,243 ATMs. Of these 1,477 ATM's fell into the >250mt weight band and were all operated by cargo aircraft, apart from 6 ATM's<sup>13</sup> (see footnote 9). The >250mt weight band is clearly targeted at the cargo operator flying large long-haul wide-body aircraft.
- 3.19 In relation to argument (ii), STAL has in fact discriminated by not applying the same discounts for off-peak landing charges to aircraft in the >250mt weight band. STAL has previously stated that the peak and off peak structure at Stansted is seasonal and not related to the time of day. They believe that as the demand within the >250mt category is relatively unaffected by the time of year it is reasonable to charge these aircraft at the same level throughout the year.
- 3.20 This clearly shows that STAL understand the demand from cargo operators within the >250mt weight band remains constant throughout the year and that it is only cargo operators affected by the >250mt weight band. However, as noted above we believe STAL should be looking to release peak capacity by encouraging freighters to operate more in the off-peak. BA believes that the >250mt weight band should benefit from off-peak landing charges in the same way as the other weight bands.
- 3.21 BA notes that the charges for operating at Stansted are not competitive when compared to those of other BAA airports such as Gatwick. Table 3.3 shows that a B747-400 operating at Stansted over a typical month would incur charges significantly above those of the same aircraft at Gatwick.
- 3.22 Throughout the Q4 period BA has sought to engage with BAA/STAL in addressing our concerns on the Stansted pricing structure.
- 3.23 In BA's response to the 2006/07 Stansted Airport Charges Consultation we requested that STAL “provide the costs and revenues associated with cargo operations to allow BA to understand whether it is receiving value for money by continuing to operate at STN (Stansted)”.<sup>14</sup>
- 3.24 STAL responded saying that they were not able to provide us with costs and revenues specifically associated with the cargo operation as their

<sup>10</sup> ACL Summer 2007 Start of Season Report, p.24

<sup>11</sup> BA research from [www.stanstedairport.com](http://www.stanstedairport.com).

<sup>12</sup> Eurostat data for Stansted Air Traffic Movements 2007 (see Appendix A)

<sup>13</sup> Eurostat data for Stansted Air Traffic Movements 2007 (see Appendix A)

<sup>14</sup> BA Procurement letter to STAL Re: 2006/07 Airport Charges 30<sup>th</sup> December 2005

accounting systems don't allocate costs and revenues in that way. Therefore BA has not been able to determine how the landing and parking charges relate to BAA/STAL's costs. In the absence of any evidence to the contrary we believe that the charges are not objectively justified.

- 3.25 BA has asked STAL to review the current pricing structure. STAL have responded saying that such a review would require a detailed consultation exercise with the whole airline community, no such request has been received by STAL from the community, and a review has not been progressed.
- 3.26 This is a disingenuous response. As demonstrated in 3.16 above, the overwhelming majority of airlines at Stansted operate small short-haul aircraft that are not affected by >250mt weight band. It is not in the interests of these carriers to initiate such a review. Where BA, as a major cargo operator, has raised this under the Airport Charges Consultation STAL have effectively ignored the request. They would not be able to act in such a manner if Stansted had genuine competition for cargo services and did not have the benefit of TDRs.
- 3.27 In any case, there is no reason for charges to other airlines to change since revenue from non-passenger flights is excluded from the price cap under the regulatory settlement.
- 3.28 Any review of costs and pricing should take into account the following facts:
- i) Non-passenger flights do not use most of the terminal infrastructure that is used for passenger flights.
  - ii) There has been little or no investment in cargo facilities at the airport and none is currently planned (see Appendix B).

#### 4. THE STANSTED PRICE CONTROL FOR NON-PASSENGER FLIGHTS

4.1 In the CC's Q4 report (published by the CAA in November 2002) the issue of non-passenger flights was discussed; specifically the proposal to remove those revenues from the price cap<sup>15</sup>. The CC discussed the risk that the airport(s) might increase charges and recommended that a condition was included to prevent charges exceeding those for equivalent passenger flights. The CAA in its decision of February 2003 duly included this<sup>16</sup>.

4.2 In the CAA Price Decision of February 2003 "relevant air services" were defined as "air services carrying passengers". Stansted Condition 2 stated:

"In each of the five consecutive years beginning on 1 April 2003 the operator of Stansted Airport shall not levy airport charges in respect of air services that do not fall within the definition of relevant air services for the purposes of Stansted Condition 1 that are higher than are levied in respect of equivalent air services falling within that definition".

4.3 It appears to us that STAL has not complied with the spirit and intent of this condition because it has:

- i) Structured its charges in a way that means that freighter services operated using large aircraft (e.g. Boeing 747s) operate in a separate weight category to all other flights without objective justification (see Section 3).
- ii) In 2003/04 STAL implemented the following Landing Charge price increases for the peak period (assuming a Chapter 3 Base aircraft):
  - a. >16mt 3.84% increase
  - b. >50mt 4.76% increase
  - c. >250mt 5.56% increase

This had a disproportionate effect on the aircraft in the >250mt weight band which are cargo freighters. It was not clear to BA what was driving the differential between these increases.

- iii) Not applied the peak/off-peak seasonal charging structure that applies to all other weight bands at Stansted - where the majority of operators are passenger airlines – citing the lack of seasonal variation in demand from aircraft >250mt, i.e. freighters (see Section 3).

<sup>15</sup> Competition Commission report on the Economic Regulation of the London Airports (Heathrow, Gatwick and Stansted), November 2002 – p.80, para 2.304.

<sup>16</sup> CAA Decision on the Economic Regulation of BAA London Airports (Heathrow, Gatwick and Stansted) 2003-2008 – February 2003, p.133, Annex 9.3, condition 2.

## 5. CONCLUSIONS

### 5.1 BA considers that:

- i) STAL has a dominant position in provision of cargo services in the South East as a result of Traffic Distribution Rules and geographic factors.
- ii) The pricing structure used at Stansted disproportionately penalises large, long-haul freighter operators who have no recourse to the market.
- iii) BAA/STAL have not engaged with customers in a constructive manner to address legitimate customer concerns in the absence of a market remedy.
- iv) STAL has, as a result, pursued a course of conduct which operates against the public interest within the meaning of Section 43 of the Airports Act 1986.
- v) In addition, STAL has not complied with condition 2 of the Q4 Price Control.

5.2 BA recognises that whilst raising these issues with BAA/STAL since 2004 we have not sought to pursue a pricing complaint with the CAA under Section 41 of the Airports Act 1986. BA did not have confidence that the CAA would provide a remedy through this route.

5.3 The lack of development of cargo infrastructure at Gatwick (see Annex B) is possible only because of BAA's dominant position.

5.4 The TDRs have an adverse effect on competition and that there is a case for removing /amending them. BA urges the CC to pursue this in the Market investigation.

Appendix A – Stansted Air Traffic Movements by Aircraft Type in 2007<sup>17</sup>

Aircraft Type	Weight Band	Cargo	Passenger	Total
<b>Longhaul aircraft</b>				
Boeing 747	>250mt	1421	5	1426
Antonov An-124	>250mt	50	0	50
Airbus A340	>250mt	0	1	1
Boeing MD-11	>55mt	1793	0	1793
Airbus A300	>55mt	1420	49	1469
Boeing 767	>55mt	986	1444	2430
Airbus A310	>55mt	30	27	57
Airbus A330	>55mt	0	7	7
Douglas DC-10	>55mt	0	6	6
Boeing 777	>55mt	0	4	4
<b>Shorthaul aircraft</b>				
Boeing 737	>55mt	2198	127849	130047
Boeing 757	>55mt	27	3355	3382
Douglas DC-8	>55mt	20	0	20
Airbus A319	>55mt	0	36688	36688
Airbus A320	>55mt	0	3766	3766
Airbus A321	>55mt	0	1899	1899
Boeing MD-90	>55mt	0	1283	1283
Boeing MD-80	>55mt	0	173	173
Boeing MD-87	>55mt	0	30	30
Boeing MD-88	>55mt	0	6	6
Tupolev TU-154	>55mt	0	3	3
BAE-146	>16mt	1326	289	1615
Aerospatiale ATR-42	>16mt	386	78	464
Aerospatiale ATR-72	>16mt	274	821	1095
Fokker 100	>16mt	0	2593	2593
BAE Avroliner RJ-85	>16mt	0	151	151
Embraer 135	>16mt	0	82	82
Douglas DC-9	>16mt	0	72	72
BAE Avroliner RJ-100	>16mt	0	70	70
SAAB 2000	>16mt	0	68	68
De Havilland Canada Dash-8	>16mt	0	35	35
Canadair CL-600	>16mt	0	11	11
Embraer 145	>16mt	0	7	7
Fokker 50	>16mt	0	4	4
Dornier 328	<16mt	0	9	9
<b>Unspecified aircraft</b>				
Avroliner OTHER	>16mt	0	3	3
BAE OTHER	>16mt	213	227	440
Canadair OTHER	>16mt	0	12	12
Lockheed OTHER	>16mt	156	0	156
OTHERS	>16mt	45	48	93
<b>Totals</b>				
<b>TOTAL</b>		<b>10345</b>	<b>181175</b>	<b>191520</b>

<sup>17</sup> Data from <http://epp.eurostat.ec.europa.eu/> with additional research by BA.

## Appendix B – BAA Investment at Stansted and Gatwick

- A. In previous submissions to the CC we have noted the lack of capital investment in cargo-specific infrastructure at Stansted over the Q4 period<sup>18</sup>. BA is concerned that BAA has no need to invest in specialised facilities for all-cargo operators using wide-body aircraft at other airports, such as Gatwick, because new cargo services are prevented from operating there.
- B. Currently in the Stansted CIP for 2008 setting out capital investment projects for the next 10 years there is only one cargo project. This is for the possible extension of the current cargo shed facility. STAL have an option to “explore” this project in order to meet forecast growth<sup>19</sup>.
- C. BAWC will not require the use of the proposed extension to the cargo shed facility at Stansted. [§<]
- D. The Gatwick CIP for 2008 does not have any cargo-related or specific projects.
- E. It should be noted that over the ten-year period from 2008 to 2018 STAL predict Cargo ATM's to grow from 10,600 to 23,500 per annum. It should be noted that there is not a capital investment programme aimed at delivering this sizeable growth over the next ten-year period. At Gatwick over the same period there is no growth forecast remaining at a level of 1,000 Cargo ATM's per annum.
- F. At Gatwick BAA have been clearly seen to actively distance themselves from the type of cargo facilities required to support large, long-haul cargo operations.
- i) In 2005 the Airport Property Partnership (APP) was created as a 50/50 joint venture between BAA Lynton (BAA's specialist commercial property team) and Morley Fund Management.
  - ii) On the 21<sup>st</sup> March 2008 BAA announced that APP would sell a portfolio of 33 assets to The Arora Family Trust for £265 million.
  - iii) The transaction is part of BAA's strategy to dispose of non-core assets, and represents the first stage in the sale of APP and BAA Lynton.
  - iv) BA has 2 leases on cargo facilities at Gatwick from APP. [§<]
  - v) [§<]. APP increased the rent by 19.66% to [§<] per annum at the time of the last lease renewal on 31<sup>st</sup> July 2006. For comparison if this had been an RPI increase it would have been in the region of 9.62% - assuming 3.11% RPI per annum over three years.
- G. BAA will no longer hold any interest in the cargo facilities that BAWC operate from at Gatwick once the sale from APP to The Arora Family Trust is completed. This is an example of airport infrastructure being effectively disposed of by BAA. The Arora Family Trust will have no obligation to continue to lease the facility as airport infrastructure and could choose to realise the value of the site in order to pursue other developments.

<sup>18</sup> BA response to CC Market Investigation Questionnaire, para. 31.28 - 31.29

<sup>19</sup> Stansted Airport Limited 10 year Capital Investment Programme – April 2008, p.59-60.

- H. The disposal of these assets could well deprive Gatwick of vital infrastructure that could be expected to support competitive cargo operations serving the South East. The current TDRs allow BAA to engage in this type of behaviour in the knowledge that new cargo operations that wish to serve the South East market must go to Stansted. If Gatwick were competing with Stansted for cargo operations this infrastructure would be essential.
- I. Whilst BAA have indicated that cargo operations are integral to Stansted development their seems to be a distinct disparity between their pricing and capital investment strategy and their cargo growth strategy. To date BA's view remains that the absence of significant investment over the last few years at Stansted is inconsistent with the high charges that have been levied.
- J. At Gatwick BAWC have had discussions about infrastructure provision to support large, long-haul cargo aircraft such as the B747. Whilst BA have operated B747's to Gatwick on an ad-hoc basis (e.g. annual flights for Beajoulais Nouveau wine) the infrastructure is not sufficient for scheduled cargo services. These discussions are progressing.
- K. BA views the TDRs as allowing BAA to manage the development of cargo services within its airport system. The lack of suitable infrastructure at Gatwick can be viewed as a result of the TDRs restricting competition between airports. With a captive market at Stansted, BAA has not had an incentive to challenge the existing TDRs. This in turn has led to a lack of infrastructure development at airports such as Gatwick.
- L. This situation would have been unlikely to occur if airports such as Stansted and Gatwick had been in genuine competition for cargo services. It could reasonably be expected that in such a dense and competitive market as the South East of England that infrastructure for cargo services would be available at two major airports at least, instead of one as it is currently.
- M. BAA does not have an incentive to seek to amend the TDRs as the current rules allow them to manage cargo traffic within their airport system. Stansted has no competitor as evidenced by BAWC's inability to re-locate despite the uncompetitive pricing structure.
- N. In 2005 BAA conducted a consultation into amending the TDRs to restrict all cargo operations at Heathrow and Gatwick<sup>20</sup>. This would have seen those operations currently at Heathrow and Gatwick move to Stansted. This shows that BAA do have the ability and inclination to attempt to amend the TDRs but only when the outcome suits their business needs and not those of their customers.

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<sup>20</sup> BA response to CC Market Investigation Jul 07, para. 3.34 & 3.35.