

CHAPTER 2

Introduction

2.1. On 11 March 1985 the Department of Trade and Industry sent to the Commission the following reference:

The Secretary of State, in exercise of his powers under section 11(1)(a) and (b) of the Competition Act 1980, hereby refers to the Monopolies and Mergers Commission ('the Commission') the questions set out below relating to the efficiency and costs of and the service provided by the British Airports Authority ('the Authority') in its commercial activities.

For the purpose of this reference:

'commercial activities' means the following activities carried on by the Authority, namely:

- (a) the making of arrangements, whether by concession or otherwise, to sell goods by retail, provide public catering facilities, operate chauffeur driven car hire services, operate public car parks and provide other services to the public;
- (b) the making of arrangements, whether by licence, contract or otherwise, for the provision of services to airlines including the provision of services by one airline to another;
- (c) the granting of leases of land including the granting of consents to assignments of such leases and the general administration of such leases.

The Commission shall upon this reference investigate and report on the following questions:

- (1) whether in carrying on its commercial activities the Authority could improve its efficiency or reduce its costs or improve the service provided, with particular reference to:
 - (a) the scope for increasing competition at the point of sale, having regard to security and safety requirements and the need to ensure the comfort and convenience of passengers and the efficient operation of the airport;
 - (b) the methods and practices of the Authority in selecting the persons to whom concessions are to be granted including the Authority's procedures for inviting and accepting tenders, the imposition on concessionaires by the Authority of contractual terms relating to the price, nature, range and quality of the goods and services to be provided by concessionaires and the award and renewal by the Authority of contracts;
 - (c) the monitoring and control by the Authority of the standard of services provided to passengers by concessionaires;

- (d) the administration and management by the Authority of leases of land where the Authority is the lessor; and
- (2) whether in relation to any matter falling within the question set out in (1) above, other than the matter of the application of the Authority's revenues to finance any of the Authority's activities which are not commercial activities, the Authority is pursuing a course of conduct which operates against the public interest.

The Commission shall report upon this reference within a period of six months beginning on the date hereof.

11 March 1985

(signed) M J Vile
An Assistant Secretary
Department of Trade and Industry

2.2. On 9 May 1985 the Department sent to the Commission a variation of the reference defining more precisely the subject of the inquiry, which was the making of arrangements by the Authority for the provision by third parties of services to the public and to airlines. The variation read:

Whereas by a Reference dated 11 March 1985 the Secretary of State, in exercise of his powers under section 11(1)(a) and (b) of the Competition Act 1980, referred to the Monopolies and Mergers Commission certain questions relating to the efficiency and costs of and the service provided by the British Airports Authority in its commercial activities:

Now therefore, the Secretary of State, in exercise of his powers under section 11(6) of the said Act, hereby varies the said Reference by substituting the following for paragraphs (a) and (b) of the definition of 'commercial activities' in the said Reference:

- (a) the making of arrangements, whether by concession or otherwise, for persons other than the Authority to sell goods by retail, provide public catering facilities, operate chauffeur driven car hire services, operate public car parks and provide other services to the public;
- (b) the making of arrangements, whether by licence, contract or otherwise, for persons other than the Authority to provide services to airlines, including, without prejudice to the generality of the foregoing, arrangements for any airline to provide services to airlines.

9 May 1985

(signed) M J Vile
An Assistant Secretary
Department of Trade and Industry

2.3. The Chairman of the Commission, acting under section 11(9) of the Competition Act 1980 and Part II of Schedule 3 to the Fair Trading Act 1973, directed on 12 March 1985 that the functions of the Commission in relation to the reference should be discharged through a group of six members including himself as Chairman. The composition of the group is indicated in the list of members which prefaces this report.

2.4. Representatives of the British Airports Authority (BAA) supplied a great deal of written evidence, and attended two hearings at the Commission. Members of the Commission visited Gatwick, Heathrow and Glasgow airports; officials of the Commission made detailed enquiries at all seven BAA airports and at six major local authority airports.

2.5. The reference was advertised in the following publications:

Daily Telegraph

The Times

Financial Times

Travel Trade Gazette

Flight International

London and Edinburgh Gazettes

As a result both of these advertisements, and of direct invitations, evidence was received from a large number of organisations. The list in Appendix 2.1 indicates those who provided written evidence, those who attended formal hearings with the Commission, and those who provided information at meetings with staff.

2.6. We are most grateful to all those who helped us, in particular to those representatives of BAA on whom the main burden of our enquiries inevitably fell. Some of the evidence we received was of a confidential nature; our report contains only such information as we consider necessary for an understanding of our conclusions.

2.7. During the course of our inquiry the Government published a White Paper entitled 'Airports Policy'.¹ This contained proposals for the future ownership and regulation of airports. Our report deals mainly with the Authority as we have found it and not as it may evolve (but see paragraphs 14.6 and 14.7).

¹Cmnd 9542, June 1985.