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## Regional air services - Government response to Select Committee report

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### Foreword

1. The Environment, Transport and Regional Affairs Committee of the House of Commons published on 27 July 1998 its report on Regional Air Services. The Committee heard oral evidence between March 1998 and June 1998 from a large number of organisations representing not only airlines and airports, but also regional and business interests. This document is the formal Government response to the Committee's report.

2. On 20 July, the Government published its White Paper, *A New Deal for Transport: Better for Everyone* (Cmnd 3950), which states that the Government will publish a statement of UK airports policy looking some 30 years ahead. This is in line with a recommendation that the Transport Select Committee made in 1996. In preparing the new policy the Government will consider the demand for airport capacity from scheduled, charter, business and freight aviation. The new policy will be integrated with the planning of surface transport and the planning of airspace capacity. The White Paper emphasises the needs of the regions and this will be reflected in the new policy. The Committee's report is therefore very timely, as the Government in developing the national airports policy will be able to take account, subject to the comments made in this response, of the Committee's recommendations.

### Response to the Committee's Recommendations

**(a) Direct international flights from regional airports can provide a useful alternative to connections via London on some routes and there would be economic benefits to the regions if the Government were to declare a unilateral liberalisation of international access to regional airports, including fifth freedom rights, in addition to the limited liberalisation that has been announced. The economic implications of liberalising regional access for dedicated freight aircraft should also be assessed (Paragraph 109).**

3. The Government wishes to encourage direct international air services to regional airports through a policy of greater liberalisation. It has decided that open access to all UK airports, except Heathrow and Gatwick, should be offered to all of its bilateral partners, provided that UK airlines are also allowed to operate on the same routes. This access applies to both passenger and all-cargo aircraft.

**4.** The Government does not regard this as a limited liberalisation. It represents a significant change of policy, which will allow both UK airlines and airlines of the country concerned to operate to and from that country on routes to all except the two major London airports without restrictions on capacity or frequency, and without the need for international aviation negotiations to establish such services.

**5.** It is too soon to make an assessment of the benefits of this change of policy, but the early signs are encouraging. The Department has raised the regional access offer with 74 bilateral partners which did not already enjoy such access<sup>2</sup>. Of the 25 which have so far given a definitive response, twelve<sup>3</sup> have responded positively. The Department is also proposing the new policy to bilateral partners whenever air services talks take place.

**6.** The Government understands the arguments for declaring unilateral liberalisation, and including fifth freedom services, for both passenger and all-cargo air services, thus removing regional air services altogether from air services negotiations. However, it is not persuaded that they are sufficient to outweigh the disbenefits to the UK of offering rights to foreign airlines which are not available to UK airlines.

**7.** Offering unilateral access to foreign carriers on a third/fourth freedom basis runs the risk of such carriers having monopoly access. Although the guarantee of such monopoly access might in itself be an attraction to start services, the Government does not believe that it is in the long term interests of regional consumers to allow foreign Governments to keep UK carriers off specific routes and to leave the subsequent development of the route entirely in the hands of a foreign carrier.

**8.** The Government has similar concerns about the grant of fifth freedom rights. Such rights are valuable and sought from the UK's bilateral partners by UK carriers. A unilateral grant of such rights, even if not extended to Heathrow and Gatwick, would diminish the prospects of gaining such rights for UK carriers by negotiation. In addition, the Government is concerned that such a policy would run the risk of giving rights to third country carriers in markets from the UK where UK airlines are constrained; and give access to valuable UK markets to airlines of third countries which are themselves illiberal. The net result of this might even be to run the risk of marginally priced fifth freedom services driving more established third/fourth freedom services operated by UK airlines off particular routes.

**9.** The Government therefore believes that third/fourth freedom rights should generally continue to be available only on the basis of reciprocity; and that fifth freedom services should be subject to negotiation with bilateral partners. This presumption does not preclude consideration of unilateral action on a case by case basis.

**10.** The Government will however keep the matter under review. It will monitor the results of the new policy on international access, and the continuing results of bilateral negotiations, involving the Civil Aviation Authority (CAA), airports, airlines and other interested parties, and report to the Committee within twelve months of the date of this Command Paper.

**11.** In *A New Deal for Transport*, the Government announced that it would undertake research to inform future policies on the air freight industry. The research will: assess the current development of the sector, including its economic importance and wider impacts; provide a better basis for forecasts of its future growth and the implications for demand for services and market change; and support the development of the new national airports policy, which will set the framework within which the industry can plan for the future with greater certainty. The part that further access liberalisation might play in supporting the UK air freight industry will be a consideration to be studied as part of the work.

**(b) It should be the objective of Government policy actively to maximise the contribution regional hubs make to meeting the demand for scheduled European and intercontinental services. The Department for Transport should commission studies into how this can be achieved (Paragraph 110).**

**(f) The Department for Transport should commission a full set of studies into the economic impact of regional air services, which should be completed within a year (Paragraph 117).**

**12.** This section responds to the recommendations contained at both paragraphs 110 and 117 of the Committee's report. As set out in *A New Deal for Transport*, the Government proposes to encourage the growth of regional airports to meet local demand for air travel which is consistent with the principles of sustainable development. The aim is to maximise the contribution which regional airports make to local and regional economies, to relieve pressure on congested airports in the South East, and to reduce the need for long surface journeys to South East airports.

**13.** The Government has already taken steps to support the further growth of regional airports. Firstly, it has liberalised international access to regional airports. Secondly, on 11 June 1998 it announced that it will be relaxing the borrowing rules for local authority airport companies whose finances are sufficiently sound. Those airports whose financial performance satisfies a range of criteria set by the Government will in future be able to borrow on the open market to finance airport-related capital investment. At present, those looking likely to benefit include Manchester, Newcastle, Leeds Bradford and Norwich. The change will enable them to invest and expand where commercially justified, and to compete for business on a level footing with their private sector competitors. The new arrangements will come into effect on 1 April 1999.

**14.** *A New Deal for Transport* announced a series of studies of the economic impacts of regional airports and regional air services. These are progressively being got under way, covering Scotland, Wales, Northern Ireland, the North of England, the Midlands and the South West. They involve the relevant territorial department or Government Office, and The Department for Transport. They are focusing on the link between air services, economic growth and regeneration, and on the environmental and economic implications for the region of further growth in services to and from regional airports. They are being carried out in close consultation with interested parties within the region, including Regional Development Agencies, regional and local authority planning representatives, the aviation industry, health and environmental, community and business interests. Among other things they are assessing forecasts of future demand for regional air services under a range of alternative scenarios and considering the options for meeting or managing any imbalance identified between demand and capacity. They will provide background information and an analysis of options which will inform public discussion and lead to the formulation of a strategy for each of the study areas as part of the new UK airports policy. All the studies should be complete by late 1999.

**15.** In addition to the regional air services studies, the Government intends to take a more detailed look at the economic impacts of particular regional air services to London. These studies will assess the economic impact of a link to London, and the difference (if any) in economic terms between a link to Heathrow or to Gatwick. The routes for these case studies are Inverness to London and Newquay/Plymouth to London. The studies will be based on and develop the methodology prepared by CAA for examining the economic impact of new international air services. They will need to be carried out alongside the respective regional air service studies, and involve consultation with the same range of interested parties.

16. The Department of Environment, Transport and the Regions is also in the process of preparing guidance on the methodology for assessing the economic benefits and costs of additional airport capacity. This will include assessing the impacts on local and regional economic activity and employment. This guidance will be completed shortly. Guidance on the more complex issue of the relationship between airport capacity enhancement and other wider economic effects such as the locational choices of companies and inward investment will take longer to prepare.

**(c) Runway capacity in the South East of England, as outlined in the former Transport Committee's report UK Airport Capacity, is in short supply. This shortage puts pressure on regional air services. The Government must address the question of capacity in the South East as a matter of urgency (Paragraph 111).**

17. The Government agrees that runway capacity in the South East is in short supply. At Heathrow and Gatwick, all the peak period and most of the off-peak runway capacity is already used up. Given the continued growth in demand for air travel for both business and leisure, the Government expects that over the next few years peak hour constraints will increase at Stansted and appear at the other airports in the South East. This is already putting pressure on services between the regions and South East airports, and this is likely to continue. Addressing the problems that this causes will be a key element in the National Airports Policy.

**(d) The Department for Transport has not published any air transport movement forecasts of its own, although it told us that the CAA does prepare them; we recommend that these forecasts be published annually (Paragraph 112).**

18. The Department agrees with the Committee that long term forecasts of air transport movements (ATMs) and passenger demand are important elements in appraising the requirement for additional airport capacity as well as in informing the development of airport policy and that they should be available on a regular basis.

19. The Economic Regulation Group of the CAA currently produce forecasts annually of ATMs for use by and on behalf of National Air Traffic Services (NATS) for planning purposes. The forecasts for ATMs in total UK airspace and for the London Air Traffic Control Centre (LATCC) for the next 20 years will be published through the CAA internet site. These forecasts complement those of passenger demand at UK airports and London area airports which are normally prepared by The Department for Transport on a three yearly basis.

**(e) The Government must produce a clear statement of airport and aviation policy, given the changes in the aviation industry over the past ten years and the capacity pressures on the system. In view of the reluctance of BAA to make plans for the future runway capacity, it must be for the Government to make statement on this vital national matter (Paragraph 114).**

20. In *A New Deal for Transport*, the Government said:

"We will prepare a UK airports policy looking some 30 years ahead. This will develop the application to UK airports of the policies set out in this White Paper - of sustainable development, integration with surface transport and contribution to regional growth. It will provide the framework within which those concerned can plan for the future with greater certainty. We will consult widely in preparing the new policy and will take account of the Inspector's report on the Heathrow Terminal

5 inquiry."

**21.** The Government is currently considering the scope and timing of the White Paper, including the extent to which it should cover aviation as well as airports policy, and will announce its conclusions in due course. It will also consider what steps might be taken to develop thinking and focus the debate on the way forward.

**22.** The Government considers that in developing a national airports policy that reflects the needs of sustainable development it must establish the parameters which will shape its approach to future specific proposals. It does not expect BAA, or any other airport operator, to take the lead on major strategic issues, such as whether further runway capacity should be provided and if so where. However, within the national policy framework, it will remain the role of airport operators to bring forward detailed proposals as and when they judge them to be viable.

**(g) The CAA needs new objectives and powers to make it a much more active champion of the users of air transport and of the country's economic interest in the aviation industry. It should become an independent regulatory agency with the following objectives:**

**(i) To promote the greatest possible contribution by the UK aviation industry to the country's economic interest, taking into account the Government's objectives for regional development;**

**(ii) To promote the interest of the users of air transport services;**

**(iii) To regulate BAA and other UK airport operators in a manner which encourages the timely provision of airport capacity; and**

**(iv) To advise government on the economic impact of air transport both nationally and at a regional level. (Paragraph 118)**

**23.** *A New Deal for Transport* stated the Government's intention to ensure that the system of economic regulation of airports continues to promote the interests of all airport users, both airlines and air passengers. Economic regulation is necessary to prevent unfair exploitation of market power by airport operators, and to provide incentives for them to improve their operating efficiency, to ensure that existing capacity is used to best effect, and to bring forward proposals, where appropriate, for capacity expansion. In preparing a national airports policy White Paper, the Government will consider how airport regulation should support wider transport objectives, including sustainable development, as set out in *A New Deal for Transport*. More generally, the Government will be reviewing the role, functions and objectives of the Civil Aviation Authority in the context of developing its proposals for a Public/Private partnership for National Air Traffic Services (NATS).

**24.** The economic regulation of airports was addressed in an annex to the Green Paper *A Fair Deal for Consumers, Modernising the Utility Framework* (Cm 3898). The Green Paper took the view that there were no factors that clearly justified differentiation in the regulation of airports and the utilities (gas, electricity, water and telecommunications), although it acknowledged that there were some important distinctions between airports and the utilities that would need to be reflected in the regulatory regime for the former. It therefore proposed that airport regulation should generally be brought into line with the standard utility model, set out in the main body of the Green Paper.

25. Having considered the responses to the Green Paper, the Government announced in July 1998 that it intends to introduce legislation when Parliamentary time allows, to place a new single primary duty on the utility regulators requiring them to protect the interests of consumers. In the light of this, the Government is considering whether to amend the existing duties of the CAA under the Airports Act 1986, and to establish a similar primary duty on them to further the reasonable interests of users of airports. In this context, "users" means both airlines and end consumers. The Department for Transport consulted on this issue, and other aspects of bringing airport regulation into line with the regulation of the utilities, in November and December 1999. It is considering the responses, and will bring forward legislative proposals when a suitable opportunity presents itself.

**(h) The Government must study the supply of, and demand for, air transport in Northern Ireland and address the concerns of its air transport users and operators. It should also reconsider the decision of the Monopolies and Mergers Commission which believed that the common ownership of the two airports was against the interests of consumers (Paragraph 119).**

26. As outlined in paragraph 13 above, one of the Government's series of regional air services studies will deal with Northern Ireland. This study, shortly to be let, will consider the supply of, and demand for, air transport in Northern Ireland and address the concerns of its air transport users and operators.

27. Among other things, the study will look at existing airport provision and capacity in the Province, including the two Belfast airports, although this does not imply any view on the part of the Government on the advantages and disadvantages of the current situation. The Monopolies and Mergers Commission does not have powers to reconsider the previous merger proposal, but any new one would be considered on its merits.

**(i) The Government must reopen its studies into the provision of additional runway capacity for Heathrow and Gatwick. This need not mean the creation of new runways but should include the evaluation of the potential and benefits of a number of practical measures that could be undertaken swiftly and which would buy time for important decisions to be made on national transport and economic development policy and the provision of airport capacity:**

**(i) "Feeder reliever" airport such as Northolt as proposed by many witnesses for Heathrow (and as proposed by our predecessor Committee in 1996). This would require the open-minded co-operation of NATS and the Ministry of Defence. .... Such reliever airports would need to be part of the major hub they were established to relieve: Northolt would become a Heathrow north terminal with fast surface links between the sites. The cost to the country of not using the available capacity at Northolt is considerable. A similar opportunity exists at Redhill aerodrome in relation to Gatwick, although a planning application to create a feeder airport there was rejected by the last Government.**

**(ii) Additional mixed mode movements at Heathrow for specified short periods of the day to create further slots which should be designated for additional regional air services.**

**(iii) Other procedural changes at Heathrow and Gatwick to allow more movements at the existing facilities. NATS is to be commended for its previous efforts to increase movements at the airports but it should not be afraid of suggesting innovative changes which may be made possible by the characteristics of new aircraft which are being introduced on regional flights.**

**(iv) Some of the feeling that Gatwick is an unsatisfactory alternative to Heathrow would disappear if there were a reliable fast link between the two airports to allow efficient interlining. The government should within the next year study ways in which a fast link between these airports might be achieved; the options of a helicopter service (as operated from 1977 to 1986, when the M25 was completed) or dedicated bus priority measures on the M25 should be among those considered (Paragraph 120).**

**28.** How capacity at South East airports might be increased without additional runways will be a matter for consideration in the development of the national airports policy. The Government will consider the Committee's suggestions as part of that process, and will therefore limit its comments at this stage.

**29.** Proposals for developing both Northolt and Redhill as major civil airports to relieve Heathrow and Gatwick have been considered and rejected in the past. The Government does not believe that circumstances have changed so as to warrant reopening matters in either case.

**30.** At the planning inquiry into the Redhill proposal, NATS expressed concern about the effect of expanded operations at Redhill on the existing runway capacity at Gatwick Airport and the surrounding airspace, as well as the overall safety considerations. NATS have advised that there have been no technological, environmental or procedural developments since 1994 to suggest that development of Redhill aerodrome as a feeder reliever is a viable option given the current ATC arrangements at Gatwick. Indeed, in the past four years, traffic at Heathrow and Gatwick has increased significantly, while the movements at London City Airport, which indirectly affect approach capacity at Gatwick, have increased by over 400%. Any available ATC sector capacity identified previously as a possibility for Redhill traffic is now fully utilised and therefore any attempt to increase commercial movements at Redhill without a major restructuring of the airspace in the southern part of the London Terminal Manoeuvring Area would lead to a corresponding loss of capacity at Gatwick Airport.

**31.** The Ministry of Defence has launched a strategic development plan to review the defence estate in Greater London; this will include RAF Northolt. To inform this consideration, The Department for Transport has asked NATS to consider the airspace implications of changes (increases and decreases) in the use of Northolt: it is possible that reduced use would free up capacity for Heathrow. Any proposal for the development of Northolt for aviation purposes would have to be examined for its environmental, social and economic impacts, and considered in the light of the Government's declared policies on planning, sustainable development, and airports. The Government does not propose to consider any proposals to develop Northolt as a major civil airport, since it is clear that the environmental consequences would be unacceptable.

**32.** Dr John Reid, then Minister for the Armed Forces, told Parliament in June 1998 that an early decision on the future of Northolt was highly unlikely. He guaranteed that while various studies were in progress there would be no increase in the ceiling on civil aviation movements at the airport and no extension in opening hours.

**33.** With regard to the use of Heathrow's existing runways, National Air Traffic Services (NATS) has already carried out some work in assessing the impact of mixed mode air traffic management options, using a Fast Time Simulation (FTS). The next stage will be for NATS to devise a real-time simulation study. But due to the preparation time required, such a study cannot be undertaken before the year 2000. Comprehensive environmental noise assessments of the mixed mode concept will only be possible when the results of the real-time simulation are available. The results are therefore most appropriately

considered in the context of the Airports White Paper.

**34.** Relatively few passengers transfer between Heathrow and Gatwick at present. This may be due in part to the fact that journeys between the two airports are considered long and inconvenient, but passengers will always from choice prefer to interline at the same airport. Following the conclusion of its Roads Review, the Government is to commission a strategic study covering the M25 and adjacent sections of radial routes. The objective will be to develop a long-term management strategy for the motorway to deal with congestion problems that lead to unreliable journey times. The use of dedicated lanes for buses, lorries and high occupancy vehicles will be considered as part of that study, which it is expected will take two years to complete.

**35.** It is open to a commercial operator to bring forward proposals for a helicopter service between Heathrow and Gatwick. However, such proposals would need to be very carefully scrutinised, particularly for their environmental, safety and air traffic control implications. Further consideration would need to take account of the policies set out in both SERPLAN's consultation document "A Sustainable Development Strategy for the South East" and the Surrey Structure Plan (First Alteration). In particular, the Surrey Structure Plan opposes aviation developments or changes, including increases in helicopter traffic, likely to worsen environmental disturbance in Surrey.

**36.** In *A New Deal for Transport* the Government set out the objective of improving public transport access to **all** airports, by bus, rail and (in the case of Heathrow) tube. A programme of Surface Access Studies, including a study of long distance rail links to South East Airports, and connections **between** the London Airports is planned, which will provide an input to the 30 year airports policy. These would complement the work which individual airports will be undertaking to identify initiatives to improve local access by public transport.

**37.** Gatwick increasingly offers a wide range of domestic and international destinations. This will not only mean that it is regarded less as a poor cousin of Heathrow, but it will also reduce the need for connections between the two airports.

**(j) There may be a case for changing the regulatory regime under which BAA operates in order to provide it with stronger incentives to develop capacity. We are not convinced that there are any significant benefits resulting from BAA owning the three main London airports and believe that ways should be considered of increasing competition within the South East airports system. If Northolt or Redhill were to be developed as feeder relievers, they should not be owned by BAA until there is demonstrable increased competition between the three London airports, although they would need to be operated as part of those airport systems. (Paragraph 121)**

**38.** Paragraphs 24 and 25 above outlined the Government's intention to amend the regulatory regime for airports. It believes that the changes it proposes will give BAA increased incentive to improve the service that it offers to airport users. However, the Government is not persuaded that there would be significant advantage from splitting the ownership of the three main south east airports. The CAA now conducts an annual regulatory review of BAA's activities at its London Airports, including its investment plans. This will provide an additional source of information for airport users and other interested parties. BAA plc has also undertaken to improve its arrangements for consulting on its investment programme as a whole and on individual capital projects. The MMC proposed that this area should be revisited in the next quinquennial review.

**39.** The 1996 quinquennial review considered whether there had been courses of conduct by BAA which operated, or might have been expected to operate, against the public interest. The MMC reported that it had not found any course of conduct by BAA London airports for which a change in the structure of their ownership would be an appropriate remedy.

**(k) The Government should advocate changes to the European slot regulation so that it:**

**(i) Defines different categories of slots, eg for domestic, short range international and long-haul, so that swapping of slots between different sorts of services can be controlled. This system already applies in the USA;**

**(ii) Establishes that slots are not the property of the airline and abolishes indefinite grandfather rights over slots, although airlines should be able to use them for a number of future seasons;**

**(iii) Gives priority to airlines bidding to operate domestic regional services, rather than new entrants, in the allocation of new slots at congested airports. Such priority would be given until a minimum of three daily round trips existed. The slots so allocated would be protected by provision (iv) below, in a similar manner to that in which the USA allocates slots at congested airports for Essential Air Service Programme flights;**

**(iv) Allows governments to protect slots at Heathrow for a specified minimum level of air services (three return services a day) for certain airports - a variation of the existing public service obligation option, which the UK government has not seen fit to use. Communities that would qualify should be those where surface journey times to London exceeded three hours and where traffic could support such flights without subsidy. Several places in Scotland, Northern Ireland, parts of England, such as Devon and Cornwall, the Channel Islands and the Isle of Man would be candidates for such protection. Qualifying airports which did not have services already could expect to obtain slots under (iii) above; and**

**(v) Ends the anomalous situation whereby airlines may own the companies which allocate slots at airports. Although we have confidence in the integrity and neutrality of Airport Coordination Ltd, this could be open to accusations of bias, particularly from foreign carriers. (Paragraph 122)**

**40.** The European Commission's proposals for revising the EC Regulation on slot allocation<sup>4</sup> are still awaited. The indication is that they will not now appear in the near future. In formulating its response to such changes as may be proposed, the Government will take account of the Committee's recommendations, subject to the comments below, and will consult the aviation industry and other interested bodies on the proposals.

**41.** The proposal that slots should be ring-fenced as domestic, short-haul and long-haul would introduce an undesirable rigidity into the slot allocation system. Current arrangements allow changes in the routes operated in response to market developments. Any new system would need to include such flexibility; otherwise, current traffic patterns for airlines would be largely frozen, thereby restricting the scope to develop new business, and limiting the development of competition on some routes. Ring-fencing might actually restrict the development of direct international services from regional airports, since airlines would be more likely to prefer to use slots to maintain their existing network of services via London if they were restricted in how they could use their slot holdings for new services. This could delay the prospect of any airline being able to introduce a competing direct service from the regions. Similar

arguments apply to the proposal that slots used for a minimum level of domestic services should be protected.

**42.** The Government agrees with the Committee's opinion that slots are not the property of the airlines which occupy them. However, the concept of slot "ownership" is a legally complex one over which different views have been expressed, and where there is currently no relevant case law. It can be argued that occupancy rather than ownership is the key consideration relating to the use of slots. Historic, or "grandfather", rights have been a long established and internationally recognised principle within the aviation industry. As a result, airlines at present plan on the assumption that they will be able to use the slots that they currently hold in future seasons, provided that they meet the conditions of minimum use set out in the EC Regulation. Airlines argue that this enables them to take a long-term view in developing routes and their wider network of services.

**43.** The merits or otherwise of time limiting slot holding could only properly be considered in the context of a full package of slot allocation regime proposals from the Commission. For instance, any time limit on slots would need to allow a sufficiently long period to continue to give airlines sufficient confidence to invest. However, even if the principle of abolishing historic rights were to be established, which would be a major change of policy, introducing time limiting on all slots at once would cause upheaval and uncertainty, with no obvious benefit to passengers. These factors suggest that time-limiting of slots could be introduced only gradually, perhaps applying initially only to new slots and those returned to the pool.

**44.** The UK has already made proposals to the Commission that priority in the allocation of slots not claimed under historic precedence should be given to airlines that wish to use the slots for services to regional airports, rather than, as at present, to new entrants. There would be an accompanying requirement on the airline to operate the services to the regional airport for a minimum period. The Government considers that this should be for at least three corresponding seasons.

**45.** In A New Deal for Transport, the Government said that it would also press for recognition in the revised EU regime for slot allocation of the case for maintaining access from regional airports into major hubs such as Heathrow and Gatwick. It will bear in mind the Committee's proposed criteria for services that should be protected when developing its negotiating position. It envisages that the case for protection of a particular route would depend upon its social or economic importance and the availability of suitable alternative modes of transport such as high speed rail. The research to be undertaken on the value of links to London, mentioned in paragraph 15 above, will help to inform the precise criteria.

**46.** The Committee suggest that the UK Government "has not seen fit to use" the existing public service obligation option (PSO) to protect slots for regional services. The Government has carefully considered whether slots could be reserved at the congested London airports for vulnerable domestic services through a public service obligation that was imposed under EC Regulation 2408/92 on market access. However, the Government had to conclude that it would not be possible to impose PSOs when services are being provided, or planned, on a commercial basis. Furthermore, the Government's interpretation of the law as it currently stands is that it would not be possible to specify a PSO in such a way as to ensure a service from a regional airport to Heathrow or Gatwick, rather than to any London airport. A route is defined as being between two cities or regions, and cannot be airport specific. This definition was confirmed by a European Court of Justice (ECJ) judgement in a case between Air Inter and the Commission<sup>5</sup>, which concluded that a route is a transport link between two cities or regions. The ECJ commented that airports were not the final destination for travellers, freight and mail, but rather a necessary point of transit, the ultimate

destination being the city or region served by the airport concerned.

**47.** The Government welcomes and shares the Committee's confidence in the integrity and neutrality of Airport Coordination Ltd. The EC Regulation requires co-ordinators to be of unquestionable neutrality. Within the industry, ACL is generally recognised as carrying out its functions in a way that is in practice more independent of airlines, airports or government than any other co-ordinator within the Community. In some EU States, slot allocation is still carried out by the flag carrier airline, while in others it is carried out by the national airport operator or by government itself. While the current shareholders of the company are all UK airlines, the Government's understanding is that the company's constitution permits any airline to become a shareholder in the company, whether it is registered in the UK, the EU, or elsewhere. It is understood some airlines have turned down an invitation to join the company precisely because they receive no advantage in terms of preferential treatment in the slot allocation process from doing so. The current ownership of eleven airlines has increased from nine in 1995.

**1:** Second Report of the Transport Committee, House of Commons Session 1995-96, on UK Airport Capacity, published 21 May 1996, HoC paper 67.

**2:** The Department did not write to the 15 countries, including the US, which already had such access, nor to Members of the European Union where the single market allows such access.

**3:** Bahrain, Bulgaria, Cameroon, Fiji, Jamaica, Jordan, Malaysia, Namibia, Pakistan, Qatar, South Korea and Turkmenistan.

**4:** EC Regulation 95/93 on common rules for the allocation of slots at Community airports.

**5:** Case T - 260/94 Air Inter v The Commission (19/6/97) paragraphs 117 to 119.