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Airports and Competition Law: *is it the end of the world?*

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Why Competition Law should matter to Airports

“We live in a society [where] competition is good, and that the consumer has choices,” he said. “Sometimes the more choices for consumers the better because it generates more activity. So, what I’m saying is I’m going to meet with not just [this particular airport] — all the airports in the surrounding area — and say how can we cooperate.”

What does Competition Law do (generally)?

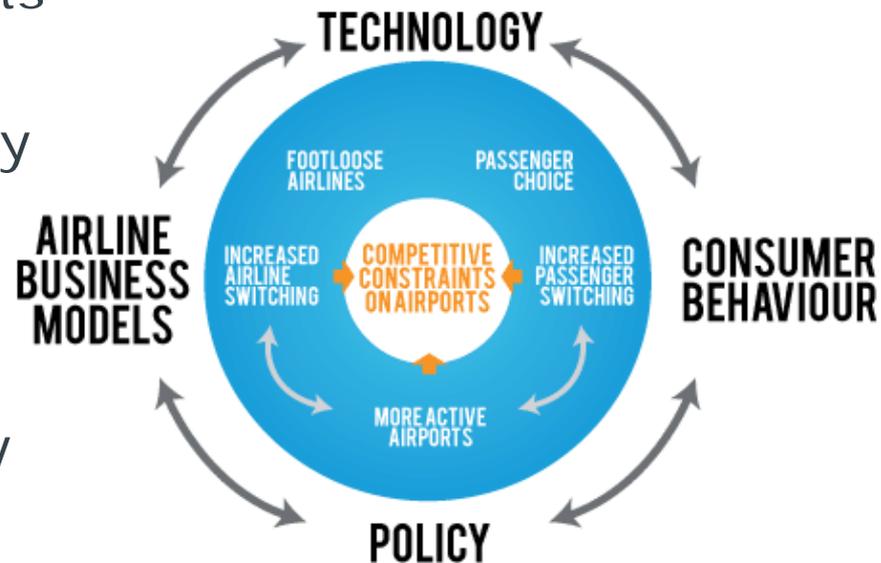
- Merger control
- Abuse of Dominance
- Prohibition on cartels and other anticompetitive agreements

Main Areas of Airports Competition Risks

- Possible ownership of several airports, Mergers & Joint Ventures
- Management Agreements
- Anti-competitive Agreements
- Business Practices (pricing, exclusionary, etc..)

Why are we talking about this now and not that much before?

- Privatization of airports in many parts of the world led to increased competitive pressure on airports
- De-regulation of airline industry
- “New” airlines business model
- Growth of the aviation industry
- Development of competition law



Source: airport-business.com

Key questions for Competition Lawyers (and economists...)

- Competition Law is not uniform worldwide, but some basic questions are recurring:
 - What is the relevant market?
 - Is there market power?
 - Is there a negative impact on competition?
 - Is there an abuse?

How to identify Markets for Airports?

- Airlines business involve many different products market:
 - Passengers
 - Passenger airlines
 - Cargo services
 - Retail
- Geographic Market Definition is also important:
 - Switching potential for clients of all product lines
 - Could lead to endless substitution possibilities

How to assess Airports Market Power?

- Assessing Market Power
 - Market shares
 - Concentration
 - Airline buying power
- Other relevant concepts
 - Barriers to entry in Airport business is generally high
 - Regulatory regimes apply
- Airport business is multi-sided
 - Market power analysis is complex

Real life stories



- In 2009-12, BAA (now Heathrow Airport Holdings) was ordered to divest Gatwick, Stansted, and one of Glasgow and Edinburgh Airports
 - Single product market for landing charges. Other services were considered to be a separate market (no effect on demand for aeronautical services)
 - There is no advantage in rigid geographic market definitions

- Similar approach when proposed acquisition of BCA by BIA in Belfast was blocked in 1996 by Monopolies Commission

Alternatives to Competition Law

- Could/Should aviation regulators do anything to try to tame market power?
- An Australia Civil Aviation authority comprehensive study suggests price regulation is “distorting production decisions and chilling airport investments”
- “Light handed” approach better?

What's ahead?

- Trends towards more privatization and globalization of markets unlikely to reverse
- Current competition paradigm likely to remain and expand

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WSJ.com

EUROPE MARKETS | October 21, 2012, 4:18 p.m. ET

Europe's Airports Get Prepared for Takeoff

What's ahead (US)?

- Federal Airport Improvement Program
- Airport Privatization Pilot Program



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WSJ.com

City's defense of privatizing Midway suggests deal likely soon

BY FRAN SPIELMAN City Hall Reporter fspielman@suntimes.com August 1, 2013 3:23PM

LATIN AMERICA NEWS | February 26, 2014 6:01 p.m. ET

Puerto Rico Airport to Go Private

What's ahead (Canada)?

- Canada
 - High taxes and charges
 - Calls for land transfers

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Le panorama urbain de Montréal

Airports and Competition Law:

... It is definitely not the end of the world!



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