



Neutral citation [2009] CAT 22

**IN THE COMPETITION**

Case No. 1110/6/8/09

**APPEAL TRIBUNAL**

Victoria House  
Bloomsbury Place  
London WC1A.2EB

1 July 2009

Before:

THE HONOURABLE MR JUSTICE BARLING  
(President)  
LORD CARLILE OF BERRIEW QC  
SHEILA HEWITT

Sitting as a Tribunal in England and Wales

BETWEEN:

**BAA LIMITED**

Applicant

-v-

**COMPETITION COMMISSION**

Respondent

APPEARANCES

Mr. Nicholas Green QC and Mr. Mark Hoskins QC (instructed by Herbert Smith LLP) appeared on behalf of the Applicant.

Mr. John Swift QC and Mr. Ben Rayment (instructed by the Treasury Solicitor) appeared on behalf of the Respondent.

Mr. Daniel Jowell and Miss Sarah Love (instructed by Nabarro LLP) appeared on behalf of the potential intervener, Ryanair Limited.

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**RULING (INTERVENTION)**

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*Transcribed from tape by **Beverley F. Nunnery & Co.**  
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THE PRESIDENT:

- 1 There is no dispute that Ryanair Limited (“Ryanair”) should be allowed to intervene. One issue that has arisen in relation to its application to intervene is an objection by BAA to the scope of that intervention extending to ground 1 of BAA’s application for review, namely the ground which raises the question of apparent bias.
- 2 Mr. Green QC, who appears for BAA in relation to this matter, makes the point that in its application Ryanair refers (in particular in paragraph 10 of the application) to a desire to make submissions and serve evidence in connection with ground 2. In addition to that, Mr. Green says that ground 1 is likely to be purely a matter of law, or the application of the law to facts which are not likely to be in dispute, and that the Competition Commission is perfectly well able to defend its own procedures in this regard, and needs no assistance from Ryanair. He argues that Ryanair would – if permitted to intervene on that ground – effectively be an officious bystander, and therefore its intervention should exclude ground 1.
- 3 We do not agree. It seems to us that in its application, whilst drawing attention to the fact that it would have a specific input to bring to the feast as far as ground 2 is concerned, because of its position as one of the main customers of BAA in relation to certain of BAA’s airports, the application does not in any way purport to exclude a desire to intervene in relation to ground 1. Of course it must certainly be understood that in relation to any ground the intervention will only be permitted on terms that require that there is no unnecessary expenditure of time or effort in duplicating the submissions, written or oral, made by the Competition Commission. That requirement is always the case where an intervention is allowed.
- 4 However, it seems to us that Ryanair has established a sufficient interest in the outcome of the judicial review as a whole and we can see no reason at this stage why its intervention should be limited to ground 2, and should exclude ground 1. We are not prepared to limit its intervention in that way.