



COMPETITION APPEAL TRIBUNAL

NOTICE OF AN APPEAL UNDER SECTION 70 OF THE SUBSIDY CONTROL ACT 2022

Case No: 1740/12/13/25

Pursuant to Rule 14 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Tribunal Rules”), the Registrar gives notice of the receipt of an appeal on 20 June 2025 under section 70 of the Subsidy Control Act 2022 (“the Act”), by Bristol Airport Limited (the “Appellant”) seeking a review of a decision of the Welsh Government (the “Welsh Ministers” or the “Respondent”) to grant a subsidy package of up to £205.2 million on a phased basis over 10 years to Cardiff International Airport Limited (“CIAL”) (“the Subsidy”). The Appellant is represented by Osborne Clarke LLP, Halo, Counterslip, Bristol Bs1 6AJ (Ref: Aqeel Kadri / Marc Shrimpling).

According to the Notice of Appeal (the “NoA”), CIAL opened in 1952 and was initially owned by Glamorgan County Council. It was privatised in 1995. After 2008, it began to lose passenger volume and, in 2013, was purchased from its private operator by the Respondent. Since its acquisition, the Respondent has invested some £179.6 million in acquisition costs, equity investment, loans and grants.

The Appellant serves 10 million passengers a year, drawn from a catchment that includes most of Wales and serves South Wales in particular. The Appellant estimates that 20% of its passengers are from South Wales, which it says is more than CIAL currently serves in total. The NoA also states that the Respondent’s own analysis confirms that Bristol is the airport most likely to be harmed by the proposed route development activities that will be subsidised.

The NoA states that in late 2023 the Respondent confirmed an intention to pursue a policy of ongoing, scalable financial support to CIAL and agreed that officials should complete work on the details of a long-term subsidy approach. The proposed subsidy was announced by means of a Written Statement on 22 July 2024. On 15 August 2024, the Respondent requested a report from the Subsidy Advice Unit (the “SAU”) of the Competition and Markets Authority (the “CMA”) on the basis that the Subsidy is a Subsidy of Particular Interest, as required under section 52 of the Act.

In its report (the “SAU Report”) the SAU considered information provided by the Respondents and third party submissions in its assessment of compliance with the requirements of Chapters 1 and 2 of Part 2 of the Act. The SAU Report which was published on 2 October 2024 was provided as non-binding advice to the Respondent and was advisory only. The SAU made a number of recommendations, including:

- (i) clarifying the likely counterfactual;
- (ii) providing more evidence to support the conclusion that all costs covered by the Subsidy are additional and would not otherwise have been funded;
- (iii) providing additional explanation and supporting evidence to show that the Subsidy is proportionate to its policy objective; and

- (iv) More systematically set out and evidence potential competition and investment impacts, drawing on the relevant parts of the Statutory Guidance (Principle F).

The NoA states that following receipt of the SAU Report, the Respondent prepared additional evidence and amended its subsidy control assessment.

The NoA states that the Subsidy was awarded on 3 April 2025 and details were published on the Subsidy Database on 4 April 2025. In the notification on the Subsidy Database, the policy objective of the Subsidy is described as follows:

“The overarching objective is to address inequality in the Welsh economy compared to the rest of the UK by growing the aviation sector and aerospace businesses with the Airport at the centre, as aligned with the WG key priorities and economic policy objectives for the Airport. The specific policy objective to address the equity issues evidenced and discussed in the referral submission is to grow the regional economic activity associated with the Airport and maximise the potential agglomeration benefits linked with the wider aviation and aerospace sectors in the region.

The investment in the Airport will contribute to the Programme for Government well-being objectives, through: Building an economy based on the principles of fair work, sustainability and the industries and services of the future. Enable tourism, sports and arts industries in Wales to thrive. Give Wales the strongest possible presence on the world stage.”

The Appellant submits that in making the Decision the Respondent has erred in fact and/or law by:

- a) Failing to determine that CIAL fell within the definition of an “ailing or insolvent enterprise” within the terms of section 24 of the Act (“Ground 1”);
- b) Failing to determine that, correctly analysed, the Subsidy was one for rescue and/or restructuring and accordingly failing to categorise it as such and to comply with the terms of section 19 of the Act and/or section 20 of the Act (“Ground 2”);
- c) Further or alternatively, failing lawfully to apply the subsidy control principles in Schedule 1 of the Act and concluding that the Subsidy could lawfully be granted (“Ground 3”);
- d) Further or alternatively, failing lawfully to apply the provisions of section 28 of the Act in so far as any element of the Subsidy, correctly analysed, falls for consideration as subsidy to air carriers for the operation of air routes (“Ground 4”).

By way of relief, the Appellant seeks an Order:

- 1. Declaring that the contested decision was unlawful.
- 2. Quashing the contested decision.
- 3. To the extent necessary, requiring the Respondent to reclaim any element of the Subsidy already made available to CIAL by means of a recovery order under Section 74 of the Act.
- 4. Payment of its costs of this Appeal.

Any person who considers that they have sufficient interest in the outcome of the proceedings may make a request for permission to intervene in the proceedings, in accordance with rule 16 of the Rules.

Please also note that a direction of the President is currently in place as to the electronic filing of documents: see paragraph 2 of the [Practice Direction](#) relating to Covid-19 published on 20 March 2020. Therefore, a request for permission to intervene should be sent to the Registrar electronically, by email to registry@catribunal.org.uk, so that it is received within **three weeks** of the publication of this notice.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa CBE, KC (Hon)
Registrar

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