



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1110/6/8/09

**BETWEEN:**

**BAA LIMITED**

**Applicant**

**-v-**

**THE COMPETITION COMMISSION**

**Respondent**

-supported by-

**RYANAIR LIMITED**

**Intervener**

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**ORDER**

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**UPON** reading the correspondence from the legal representatives of the parties indicating that they have reached agreement as to the establishment of a confidentiality ring according to the terms herewith

**AND UPON** hearing the legal representatives of BAA Limited ("BAA"), the Competition Commission ("Commission") and Ryanair Limited at a case management conference on 1 July 2009

**IT IS ORDERED THAT:**

1A. This Order becomes effective in respect of each of the persons named in Part A of the Schedule to this Order only upon receipt by the Tribunal of a signed undertaking in the terms of Part B of the Schedule to this Order.

1B. For the purposes of this Order:

a. "**Confidential Information**" means:

- i. information the disclosure of which would be contrary to the public interest; and/or

- ii. commercial information the disclosure of which could significantly harm the legitimate business interests of the undertaking to which it relates; and/or
- iii. information relating to the private affairs of an individual the disclosure of which could significantly harm his interests;

being the material contained in Filed Documents (and which has not, prior to the making of this Order, been disclosed to all other parties in the non-confidential versions of pleadings and other documents thus far served) which is identified in the manner set out at paragraph 3 below.

b. "**Relevant Advisers**" are those persons:

- i. listed in Part A of the Schedule to this Order who **have** given a written undertaking to the Tribunal in the terms of Part B of the Schedule to this Order;
- ii. authorised by the Tribunal upon further application.

c. "**Filed Documents**" means versions of:

- i. the pleadings and other documents filed at the Tribunal with the pleadings; and
- ii. any other documents served in connection with these proceedings

which contain any Confidential Information.

2. Each of the parties shall hereafter disclose to the other parties copies of the Filed Documents on condition that such Filed Documents and any Confidential Information contained within these shall be disclosed only to the Relevant Advisers.
3. For the purposes of paragraph 2 above, the Filed Documents must be marked so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 13.22 of the Tribunal's Guide to Proceedings (October 2005).
4. In the case of pleadings and other documents served thus far in the proceedings by BAA, BAA shall comply with paragraph 2 above by 5.00 pm on 3 July 2009 and separately serve non-confidential/redacted copies of these documents at the same time on the other parties.
5. In the case of pleadings and other documents served thus far in the proceedings by the Commission, the Commission shall comply with paragraph 2 above by 5.00 pm on 3 July 2009. As to the form in which these Filed Documents should be disclosed on 3 July 2009, the Commission shall disclose the documents without marking up its Filed Documents to comply with paragraph 3 above. Instead, the Commission shall serve a supplementary set of its Filed Documents on the Relevant Advisers to comply with paragraph 3 above by 5.00 pm on 7 July 2009 and separately serve non-confidential/redacted copies of these documents at the same time on the other parties. Relevant Advisers shall not be entitled to discuss any part of these Filed Documents with their clients until service of the non-confidential/redacted copies of the documents.
6. If any party wishes to add any additional person as a Relevant Adviser for the purposes of paragraph 1B(b)ii above, they shall apply to the Tribunal in writing and copied to

the other parties indicating whether each of the other parties consents or does not consent to the addition of that person.

7. Costs be reserved.
8. There be liberty to apply.

**The Honourable Mr Justice Barling**  
Chairman of the Competition Appeal Tribunal

Made: 3 July 2009  
Drawn: 6 July 2009

## **SCHEDULE**

### **PART A**

**This part contains the names, for each party, of Relevant Advisers:**

#### **BAA Limited**

*External counsel*

Nicholas Green QC

Mark Hoskins QC (both of Brick Court Chambers)

*External solicitors*

Stephen Wisking

Belinda Joanne Ampah

Richard Hughes

John Cagan (all of Herbert Smith LLP)

Paul Lomas

David Aitman

James Aitken

Nicholas Frey

Andrew Skudder (all of Freshfields Bruckhaus Deringer LLP)

*External adviser*

Martin Falkner (of Gleacher Shacklock LLP)

#### **Competition Commission**

Any member of, or person employed by, the Competition Commission who is for the time being working on these proceedings or the matters which have given rise to them.

*External counsel*

John Swift QC

Paul Harris

Ben Rayment

Ewan West (all of Monckton Chambers)

*External solicitors*

Duncan Brown

Alexandra Lewenstein

Alexander Smeath

Louise Marriott

Lee John-Charles (all of the Treasury Solicitor's Department)

**Ryanair Limited**

*External counsel*

Daniel Jowell

Sarah Love (both of Brick Court Chambers)

*External solicitors*

George Maling

Peter Fitzpatrick

Ben Hockman (all of Nabarro LLP)

**PART B**

In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser mentioned in Part A of this Order undertakes that they will comply with the following requirements in the following terms:

I, [name], of [chambers, firm or company] being [legal or other qualification] and regulated so far as my professional conduct is concerned by [regulatory body if any] undertake to the Tribunal as follows:

1. I will not disclose the Confidential Information (as defined in the Tribunal's [draft] Order of [2] July 2009) to any person outside those listed in Part A without the consent of the person originally disclosing the information or the permission of the Tribunal.
2. I will use the Confidential Information only for the purpose of these proceedings (and for no other proceedings or use).
3. All documents which I receive containing the Confidential Information will remain in my custody or the custody of the other Relevant Advisers at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
4. The production of further copies by me of the documents containing the Confidential Information shall be limited to those required for the use of the Relevant Advisers for the purposes of these proceedings.
5. Any such copies and the documents in paper form containing the Confidential Information will be returned to the party originally disclosing the documents at the conclusion of the present proceedings (including the determination of any appeals); any such copies and the documents containing the Confidential Information in electronic form will be returned where possible or where that is not possible will either be destroyed to the extent practicable or rendered inaccessible from any computer system, disk or device so that it is not readily available to any person.
6. Save that none of the requirements listed at paragraphs 1. to 4. above shall prevent the Relevant Advisers from disclosing to the party advised by them information which such party has already seen.

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[Name]

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Date