



05 November 2025

ATLANTIC JOINT BUSINESS AGREEMENT: A COMPETITIVE UNDERTAKING

On 6 August 2025, the UK's Competition and Markets Authority ("CMA") accepted binding commitments ("Commitments") from the airlines which are party to the Atlantic Joint Business Agreement ("AJBA"), to address concerns that their combined market power would have an adverse effect on competition on certain transatlantic routes between the UK and North America. The AJBA has been operational since 2010 subject to remedies which were agreed with the European Commission ("EC") to last for a period of 10 years ("2010 Commitments"). Since almost all the 2010 Commitments related to transatlantic routes originating in the UK, post-Brexit these Commitments (and any replacements once they expired in 2020) fell within the jurisdiction of the CMA.

This prompted the CMA's investigation, which commenced in 2018 and spanned the pandemic. The CMA found that competition on the relevant routes had evolved since the EC's original investigation concluded in 2010, although absent the Commitments, the AJBA was still likely to lead to less choice, lower quality of service and higher fares (or less aggressive fare competition) on four UK to US routes.

A number of measures under the Commitments were similar to those previously in place under the 2010 Commitments (e.g. slot releases, prorated agreements, competitor access to frequent flyer programmes ("FFP")), albeit with certain differences in scope. The most notable difference is the CMA's acceptance of a behavioural 'local passenger' volume commitment between London and Dallas, to address the concerns arising on this particular route. A Monitoring Trustee has also been appointed to oversee ongoing compliance with the Commitments.

The slot release procedure under the Commitments is ongoing, with the deadline for submission by third parties of formal bids for the IATA Summer 2026 Slot releases passing on 9 October 2025. Completion of the slot release agreements is anticipated in early 2026, and the successful third-party competitor(s) will use the slots for the IATA Summer 2026 Season.¹

¹ Beginning on 29 March



Going forward, it is clear that airline alliances will remain firmly on the regulatory radar, and it will be interesting to see whether the CMA will remain willing to accept tailored behavioural commitments to address concerns arising in the future, where no structural solution can be found. Similarly thorough investigations are to be expected, with the efficiency gains of cooperation between airlines being balanced against the need to preserve adequate competition.

WHAT IS THE AJBA?

The AJBA is a joint venture arrangement which started between American Airlines Group Inc, (“**AA**”), and subsidiaries of the International Consolidated Airlines Group SA (“**IAG**”): British Airways plc (“**BA**”) and Iberia Líneas Aéreas de España SA (“**Iberia**”), expanding to include Finnair OYJ in 2013, and Aer Lingus in 2020, after the latter was acquired by IAG in 2015 (“**Airlines**”).

The venture is aimed at coordination of transatlantic flights, including:

- (i) **airport slots and scheduling**, to reduce route duplication and shorten transfer times;
- (ii) **capacity**, which can be adjusted in accordance with demand to prevent overcapacity and drive down prices;
- (iii) **pricing and marketing**, such as promotions and FFPs, which can be used aboard any of the Airlines; and
- (iv) **booking**, as tickets can be purchased interchangeably across the Airlines’ sites for flights run by any of the Airlines (i.e. code-sharing).

Most significantly, the agreement allows the Airlines to **share revenue** – known as the ‘metal neutral’ approach in the aviation sphere, as it is irrelevant which ‘metal’ (i.e. aircraft) is used, as each of the Airlines nevertheless profit. The AJBA therefore dissuades the Airlines from competing with each other, essentially merging their operations, which in turn may limit the ability of other airlines to operate efficiently and economically on the same transatlantic routes.

ORIGINS OF THE AJBA AND THE 2010 COMMITMENTS

The AJBA can be traced back to the efforts of AA and BA, in 1997 and 2001, to form a transatlantic alliance, at both times being refused by their respective regulators. On 14 August 2008, following the EU-US Open Skies Agreement which removed the cap on the number of EU and US airlines permitted to fly between the regions, AA, BA and Iberia signed a joint business agreement.

This was contested by Virgin Atlantic which, on 30 January 2009, lodged a complaint with the EC against the proposed AJBA, alleging that the joint venture infringed Article 101 of the Treaty on the Functioning of the European Union (“**TFEU**”). Following a year of investigation by the EC, including passenger surveys and a market test, on 14 July 2010 the EC accepted the 2010 Commitments to address the competition concerns that it had identified in relation to six transatlantic routes (London – Dallas; London – Boston; London – Miami; London – Chicago; London – New York; and Madrid – Miami), and ended the investigation.² The 2010 Commitments were binding for a period of 10 years and comprised:

- + *Slot releases*: Slots were made available at London Heathrow or London Gatwick (at the competitor’s choice) to enable a competitor to operate (or increase) flights on four routes between London and the US (London-New York; London-Boston; London-Miami; and London-Dallas);
- + *Fare combinability*: the Airlines allowed competitor airlines to offer a return trip, comprising a non-stop transatlantic service provided by the third-party airline, and a non-stop service in the other direction which was provided by the parties to the AJBA;
- + *Prorate agreements*: Allowing competitor airlines access to the parties’ services on connecting routes in order to feed third party airlines’ transatlantic services on the identified city pairs; and
- + *Competitor access to FFPs*.

The AJBA was also granted antitrust immunity by the US Department of Transportation. It was implemented in 2010.

² Case COMP/39.596 – British Airways/American Airlines/Iberia Decision rejecting Virgin Atlantic's complaint of 30 January 2009



CMA'S INVESTIGATION

The UK's exit from the European Union took place on 31 January 2020, prior to the expiry of the 2010 Commitments. Post-Brexit, the EC no longer had responsibility for competition in the UK, and the UK elements of the ABJA cooperation fell within the jurisdiction of the CMA. In anticipation of this, on 11 October 2018 the CMA launched an investigation into the AJBA under Chapter I of the Competition Act 1998 ("**CA 1998**"), to ensure that UK consumers were protected.

The CMA's investigation initially considered the impact of the AJBA on all seven city-pair routes between London and the US on which the Airlines' activities overlapped, ultimately identifying four on which the AJBA was liable to appreciably restrict competition: London–Boston, London–Chicago, London–Dallas and London–Miami ("**Routes of Concern**"). Absent remedies, the CMA considered that the Airlines would likely be able to exercise market power on the Routes of Concern, adversely impacting (*inter alia*) price and quality of service (including frequency and range of different ticket options). Various commitments were proposed by the Airlines from 2020 to address the issues arising, including the significant barriers to entry facing competitors. However, the CMA's investigation was stalled by the impact of COVID-19 on the industry:

Date	Development
7 May 2020	The Airlines offered commitments to address the competition concerns identified, and the CMA launched a consultation.
17 September 2020	The CMA decided that the commitments would not be accepted due to the exceptional circumstances and disruption to the industry caused by COVID-19, which made it difficult to assess effectively the impact of the AJBA (and the proposed commitments) on competition. <u>Interim measures imposed:</u> To prevent an enforcement gap which would arise from the expiry of the 2010 Commitments, and in the public interest, the CMA imposed interim measures to extend the 2010 Commitments for a period of three years to March 2024. Given the ongoing impact of the pandemic, these interim measures were further extended for a period of two years on 4 April 2022 and are due to expire in March 2026.
September 2023	The CMA resumed its investigation.
28 March 2025	The CMA opened a consultation into commitments offered by the airlines (these were ultimately not accepted).
3 July 2025	The CMA opened a further consultation into modified commitments proposed by the Airlines.
6 August 2025	The CMA accepted the Commitments under section 31A of the CA 1998 and closed its investigation.



THE COMMITMENTS³

In accepting the Commitments, the CMA noted that the unusual circumstances of the case (whereby the AJBA had been operational for 15 years, subject to remedies) meant that it had not been possible to measure the extent of the anticipated adverse impact on competition to date compared with the position absent the AJBA, and without the remedies. Therefore, “the CMA remains concerned about the future impact of the AJBA on the Routes of Concern”.⁴

The CMA considered that the Commitments addressed the competition concerns arising by providing for an effective constraint on the Airlines’ market power on each of the individual Routes of Concern going forwards.

(1) Slot releases

The slot commitments address a key barrier to entry and expansion for competitors. The Airlines will make daily slots available at either Heathrow or Gatwick, at the option of the applicant, of up to seven new frequencies per week across three major transatlantic routes, being London-Miami, London-Chicago and London-Boston respectively, with an additional seven frequencies to Boston subject to further conditions, creating an opportunity for new entrants in the market.

No slot commitments were required by the CMA in relation to the London-New York route (unlike under the 2010 Commitments), as the applicable conditions under the 2010 Commitments had never been met, and it had never been used. The London-Chicago route, on the other hand, had not been subject to remedies under the 2010 Commitments but was identified by the CMA as giving rise to concerns.

Typically, at Heathrow and Gatwick airports, very few slots are allocated via the secondary market;⁵ rather, most are held through historic rights.⁶ The release of these slots should make it easier for prospective entrants to operate more convenient transatlantic routes.

Key beneficiaries of the slots released will include the Virgin Atlantic/Delta joint venture, which currently operates on interim remedy slots, as well as players like JetBlue, who rely on the limited options released on the secondary market.

The Monitoring Trustee will oversee the commitments and, in particular, the Slot Release Procedure which opened on 14 August 2025. The deadline for applicants to submit a formal bid was on 9 October 2025, for the 2026 season.

(2) Prorate Agreements and Frequent Flyer Programme Access

The Airlines commit to provide competitors with supporting special pro-rate agreements (see next paragraph) and FFPs on the London-Boston, London-Chicago and London-Miami routes.

The prorated agreements will allow competitors access to AJBA-operated, short-haul connecting routes, to feed third party transatlantic services on the identified city pairs. Similarly, the Airlines must offer competitor airlines, on equivalent terms to those offered to AJBA passengers, access to their FFPs, where they do not have a similar programme. This allows passengers to accrue miles in order to purchase reward flights, thus ensuring a similar incentive between passengers to fly on certain airlines and routes.

(3) Minimum volume commitment

Finally, the Airlines have made a commitment to carry annually, on the London-Dallas route, a minimum number of local or ‘Origin & Destination’ (O&D) passengers, i.e. passengers who are not travelling beyond either destination. This is designed to address the concern that in the absence of remedies, the Airlines could exercise their market power by raising fares for O&D passengers on the route (against the background of both London and Dallas being hubs for onward travel). This ‘novel’ commitment was given in the absence of any viable structural remedy, since there was no prospect of non-stop competition on the route.

³ [Appendix 1A: AJBA commitments](#)

⁴ Decision to accept commitments offered by International Consolidated Airlines Group S.A., American Airlines, Inc. and Finnair Oyj in relation to the Atlantic Joint Business Agreement, Case number 50616, 6 August 2025 (“**Commitment Decision**”), paragraph 1.7.

⁵ A secondary market is where airlines trade unused or underutilised slots with each other. The most common transaction on the secondary market is slot leasing, and this allows an airline to trade some or all of its slots for a defined period and regain them later.

⁶ Under the historic rights system, or 80:20 rule, airlines at EU and UK airports can retain their slots provided they have operated them at 80% capacity or more during the previous season, failing which they may lose them to a competitor.



The CMA noted that it seeks to “proxy the constraint from competition by requiring the Parties to price O&D services at levels low enough to attract the required number of passengers.”⁷

Agreements pursuant to the Commitments will operate for 10 years from expiry of the Interim Measures. The coming into effect of the Commitments did not suspend the Interim Measures, which remain in place until the end of the IATA 25/26 Winter Season.

It should be noted that acceptance of the Commitments does not prevent the CMA from taking any action in relation to competition concerns which they do not address. Moreover, the CMA may continue the investigation, make an infringement decision, or give directions to the Airlines where there has been a material change of circumstances since the Commitments were accepted.

LESSONS FOR THE WIDER INDUSTRY

Is the CMA turning off autopilot?

The requirement for a local passenger minimum volume commitment is a “novel remedy”⁸ and marks a shift in regulatory thinking, with the CMA moving beyond its traditionally preferred approach of structural remedies towards more behavioural or conduct-based solutions (in the absence of a structural remedy being available). While this could signal a positive trend towards tailored remedies, vital in sectors such as aviation, it remains to be seen how the Monitoring Trustee will ensure compliance with this commitment.

Behavioural remedies in relation to airline joint ventures may be becoming more common in some jurisdictions. Indeed, regulators in Singapore and Australia have approved airline joint ventures subject only to certain strict behavioural remedies:

- + **Singapore:** In July 2025 the Competition and Consumer Commission of Singapore approved a commercial cooperation between Singapore Airlines and Malaysia Airlines subject to commitments that the airlines would: (i) each maintain its weekly seat capacity levels at the levels prior to the cooperation between them; (ii) propose an increase in capacity levels upon meeting certain performance targets; (iii) report operational data of their affiliated low-cost carriers on a specified route annually; and (iv) appoint an independent auditor to monitor compliance.⁹
- + **Australia:** In August 2023, the Australian Competition and Consumer Commission (“ACCC”) authorised Qantas and Emirates to continue their cooperation for a further five years. To address the concern that the cooperation could lead to public detriment on the Sydney-Christchurch route, the airlines committed to reporting obligations on the route (including in relation to seats operated, passengers flown, passenger revenue and operating costs), to enable the ACCC to monitor the competitive dynamics and identify whether and to what extent any public detriment may be emerging.¹⁰

MARKET CONDITIONS PLAY A VITAL ROLE

As airports worldwide struggle with overcapacity and passenger demand, evidenced by expansion proposals made by numerous London airports, including Heathrow, Gatwick, Luton and Stansted, coordinated attempts to secure slots may become more common and require further oversight. This trend may even call into question whether the 80:20 rule on slots (see footnote 6) is sufficient to protect operators and competition, or if it needs to be reconsidered in light of increased demand in passenger travel. It is likely that alternative slot release procedures will be required to manage slot scarcity, and the CMA could demand stricter commitments.

⁷ Commitment Decision, paragraph 3.146

⁸ [Decision to accept commitments](#)

⁹ [Annex A_SIA-MAB JV Proposed commitments_\(Non-confidential\).pdf / CCCS Approves Proposed Commercial Cooperation between Singapore Airlines and Malaysia Airlines After Accepting Commitments | Competition and Consumer Commission of Singapore](#)

¹⁰ [Qantas Airways Limited & Emirates | ACCC](#)



Airlines and airports should proactively engage with authorities to develop solutions that balance efficiency, innovation, and fair competition.

Our multi-disciplinary team - at Stephenson Harwood, comprising aviation and competition law specialists, understand the industry in the round and can offer support in navigating these complexities to joint venture participants seeking to ensure compliance, as well as helping to protect competing airlines which may be negatively impacted by industry cooperation.

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