

United in the Interests of British Airline Pilots



The BACC Responds to British Airways Q&A

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BA has issued a Question and Answer document. We believe that the document contains a number of misleading assurances and raises more questions than it answers.

BA remain unable to give answers to fundamental questions raised by both your representatives and the pilot community themselves.

Please take the time to read our responses to the points that BA have raised. We believe our concerns are justified and that our position accurately reflects the future risk.

BALPA responses in bold

Q Why doesn't BA want OpenSkies pilots on the master seniority list?

Our European subsidiary must be independent from BA so that it can be free to change and adapt in a highly competitive market. We believe that common seniority would inextricably link the two organisations and would over time compromise the independence of OpenSkies and its ability to respond rapidly to change.

BA has set up a new subsidiary with a new business model that will give it the best opportunity for success. We've asked BALPA to represent the pilots at the new airline and we are offering our pilots secondments with protected pensions, seniority and associated benefits.

BA offered BALPA the "opportunity" to represent OpenSkies pilots through a separate, independent Company Council. Notwithstanding the fact that Union representation is a matter that would be protected by EU law anyway and would be the choice of pilots in the new company (i.e. not something we need BA to "give"), BALPA welcomes a separate pilot council in OpenSkies. This council would have the freedom to act in any manner they deemed appropriate to support and further the interests of their members and their company. Having these pilots on the master seniority list will in no way hamper or limit the influence of the local

company council, nor degrade their ability to respond rapidly to change.

Having a position on the BA master seniority list will not have any meaning or consequence until such time as the pilot wishes to join a BA mainline fleet. Flexibility and freedom are assured up to that point.

Q Why are BALPA so concerned about this issue?

BALPA has argued that OpenSkies will in time threaten the terms and conditions of BA pilots in the UK. They are also concerned that new routes and investment could be diverted from growth in the UK to growth in Europe.

BALPA are concerned as we have compelling testimonies from several Pilots Associations around the world that a venture such as this will most certainly lead to downwards pressure on mainline terms and conditions. New routes and investment are always diverted to the lower cost base to improve "return on capital employed".

OpenSkies is outside the scope defined in Schedule K of the Memorandum of Agreement (MoA).

Incorrect. OpenSkies has been created in a period where the written word of Schedule K does not fit with the new regulatory environment. BALPA has sought to revise Schedule K, but have been systematically ignored. The intent of Schedule K is to protect the employment security and career opportunities of all BA pilots, as specifically mentioned in part 2.1 (see below). The new Open Skies arrangement between these two continents MUST mean our agreements are revised to reflect the new deregulated aviation market.

BALPA claims that as a result of the EU-US aviation agreement, Schedule K is no longer fit for purpose and

have demanded an expansion of the area of scope from the UK to the European Economic Area (EEA).

Schedule K is no longer fit for purpose. Deregulating the bilateral treaties between the two biggest aviation markets must surely lead to a revision of the agreement to reflect the new regulatory environment.

Whilst there is a technical failure to agree about scope, this has been a very small part of our discussions with BALPA. The predominant matter is our refusal to allow OpenSkies pilots on to the BA seniority list.

Scope is the issue on which we disagree. OpenSkies has merely bought forward the deadline by which we must reach agreement. BALPA has attempted to engage with BA since the agreement between EU and US, but have failed to reach agreement. OpenSkies pilots on the BA master seniority list will naturally fall under a revised Schedule K and is needed to ensure our employment security and career opportunities are protected in this new venture.

BALPA has tabled specific revisions to Schedule K to make the agreement suitable for the new regulatory environment. BA's response is clear and unequivocal: they are NOT prepared to make any changes to schedule K to reflect the new regulatory environment.

Q Are BALPA's concerns valid?

No. BA will continue to honour in full the current scope agreement, which covers flying in and out of the UK. In addition, during the Standing Conference discussions with BALPA, the Company gave further undertakings to address concerns about employment security. For details see the summary document.

The current scope agreement is not fit for purpose. The current version of Schedule K mentions flying in and out of the UK only because in 2003 BA were not allowed to partake in flying from Europe directly to the US. The version of Schedule K in existence before the current version had no geographical limit, so it can be shown that the agreement needs to fit the purpose, it needs to reflect the intent.

The aviation market in which we now live is fundamentally different. The undertakings BA gave did not meet our concerns.

For BALPA's concerns to be valid, there would need to be a transfer of work out of the UK. It is BA's intention to sustain and grow our London business and take every profitable opportunity to expand our business at LHR/LGW. The tangible examples of this are investment in

T5, investment in new aircraft and government support for Heathrow expansion.

On January 7th 2008, Willie Walsh speaking to local council representatives, said; "If we can't grow at Heathrow, we may have to look elsewhere. But we want to continue in the UK." It may well be BA's "intention" at this present moment in time, but intention and subsequent reality are very rarely the same thing at British Airways.

Investment in T5 does not mean we will have the same number of flights tomorrow as we do today – the facility is already too small for the current BA operation. Investment in new aircraft does not mean those aircraft will end up flying from LHR/LGW.

Government support for LHR expansion is yet to be determined as the public consultation is ongoing.

OpenSkies will complement the main operation not be an internal competitor.

OpenSkies will, by definition, take transfer traffic away from LHR. OpenSkies will use the same product onboard, using aircraft from the BA mainline fleet. It will indeed complement the existing operation in terms of the service offered, so why not crew it from the pool of pilots already in place?

Q What is the 'Open Skies Agreement'?

The 'Open Skies Agreement' is the agreement reached between the European Community and the United States on the first phase of an 'Open Aviation Area' (OAA). This agreement comes into effect in March 2008 and removes all restrictions on the number of services that can be operated between points in the two blocs by airlines of both sides.

BALPA sought to engage with BA to on the question of open skies and its ramifications as far back as May 2007. BA have failed to honour the intent of Schedule K despite this monumental change in the aviation market.

It also allows for any EU carrier to fly from any point in the EU to any point in the US and vice-versa. As a result of these changes, Delta, Continental, North West, US Airways and Air France have already announced new services to the US from Heathrow from next March.

BALPA have been in contact with Pilots Associations from all these airlines. Each one of them have confirmed that they will be crewed from existing mainline pilots, not with outsourced pilots as BA are proposing.

Q Is BA breaking any agreement or its intent by setting up OpenSkies?

No. The current scope clause was negotiated in 2003. It is very specific and covers UK flying.

Yes. BA are breaking the intent of Schedule K. All negotiations between BALPA and BA start and end with intent. If the wording does not reflect the intent, then the wording must change. We have successfully achieved this with work coverage and pensions, going back to the intent of the agreements to decipher what was meant and how that can now be delivered under a changed environment. The intent is, and has always been, to protect the employment security and career opportunities of BA pilots.

Q Will there be opportunities for BA mainline pilots to fly with OpenSkies?

Yes. BA has offered secondment opportunities for pilots who are interested in flying with the new subsidiary airline. The secondment will be on local terms and conditions. Pension, seniority and associated benefits will be protected.

BA have only offered a limited number of secondments, 50% for Command and 20% for Co-Pilot positions. Further these are only for aircraft 2-6. There are no secondment opportunities for aircraft number 1 and after aircraft number 6 BA say they will consult with BALPA on further opportunities. We all know what BA's definition of consultation means.

OpenSkies secondments will not form part of the normal bidding process. It will depend on a separate "interview process" and any command in OS will not be deemed "substantive" by BA. In other words BA will require any co-pilot taking a command with OS, to do another command course on return.

BA pilots will protect seniority and pay point progression of OS secondees, but the secondee will have to forgo the 15% flexible benefit package offered OS pilots. If an OS pilot took no flexible benefits then he would be earning 15% more than a BA secondee. Strange considering BA would be paying for the pay and pension protection, why BA would allow OS to save 15%?

See details in the Standing Conference summary and FAN number 08/08.

BALPA have never argued that employment in OpenSkies should not be on local terms and conditions. However, BA have not committed to secondment opportunities for the first airframe, nor for any aircraft beyond number 6.

Q How will the launch of OpenSkies affect BA pilots?

Secondment opportunities for mainline pilots will now be made available. For pilots who are not interested in these opportunities, there will be no impact on their terms or conditions.

Q Is BA planning to move operations to mainline hubs in Europe over time?

No. With the added challenges that the EU-US aviation agreement brings, the company's intention is to sustain its position as the market becomes increasingly competitive.

The company's intention is not the same as what they are going to do. An intention is no guarantee of a course of action. On January 7th 2008, Willie Walsh speaking to local council representatives, said; "If we can't grow at Heathrow, we may have to look elsewhere. But we want to continue in the UK."

OpenSkies is about taking the fight to the competition by launching a subsidiary airline operating point to point from the EU to the US to boost our customer base and provide an additional revenue stream for the company.

BALPA welcomes taking the fight to the competition. BA mainline pilots are very much a part of the BA brand and want to be included. By definition, flying point to point between Europe and our biggest market, namely the US, OpenSkies will at the very least capture our transfer traffic. This will not be an additional revenue stream, but a business that captures an existing BA customer base and flies them at a much reduced cost. Those cost savings are little to do with pilot costs but are due to the corporate support costs of BA.

Q Are these opportunities just limited to the first six aircraft?

No. During the Standing Conference BA offered commitments on the known plan. This plan sees the first aircraft entering service with OpenSkies in summer 08 with the fleet growing to six by the end of 2009. We have committed to consult with both BA and OpenSkies Company Councils regarding ongoing secondment opportunities.

"Known plan"? BALPA believes the plan currently in the public domain is merely for public consumption, and nothing more than a press release. BALPA believes the actual business plan for OpenSkies, which we have not been allowed to see officially, involves anything up to 30 aircraft all sourced from current fleets or new orders.

BA say they will consult with BALPA on further opportunities. We all know what BA's definition of consultation means.

Q For those BA mainline pilots who choose to apply to OpenSkies, will they be given preference over other applicants?

During Standing Conference, we offered BALPA guaranteed Captain and Co-pilot opportunities within OpenSkies. BA mainline pilots who choose to apply to fly with OpenSkies will have to meet OpenSkies selection criteria.

See details in the Standing Conference summary and FAN number o8/o8.

Q What are the terms and conditions for OpenSkies pilots?

Full details of the terms are available from OpenSkies. They will be available to view on <http://flyopenskies.com>

Q Isn't OpenSkies like the Qantas/Jetstar situation?

No. Jetstar operates out of the Qantas main base.

Jetstar started life based at Newcastle, New South Wales. Through aggressive growth, it now also operates from many of the same airports as Qantas. Jetstar is now based in Melbourne and has bases both within Australia and also Asia.

The comparison is flawed because the MoA precludes the ability of BA to set up an internal competitor at our home base, which is not resourced by BA mainline pilots. UK flying is already covered by Schedule K and we will continue to honour our agreements.

The term "UK flying" is meaningless now. BA has the right to fly to any point in the US from any point in the EU. For the agreement to fit the real world Schedule K must be revised.

Additionally, to reach a constructive industrial settlement, at Standing Conference we offered to give the following undertakings:

- To continue to seek to maximise profitable growth at LHR/LGW
- To backfill all 6 B757 aircraft destined for OpenSkies
- Not to use the difference in terms and conditions to benchmark or leverage change in BA.
- Not to shrink the mainline fleet to grow OpenSkies
- Not to divert any of our confirmed aircraft orders (12 x A380 and 24 x B787) into OpenSkies. This order includes 14 longhaul growth hulls over today's fleet total.

BALPA are not able to accept "undertakings" or accept "intentions" in lieu of a suitably worded scope agreement which fits the aviation market between EU and US.

Q Are there any different considerations that affected either Iberia or Aer Lingus compared to Qantas?

For Iberia, the same arguments apply in full as the recent dispute was about flying from the host country. Aer Lingus at Belfast employ pilots on different terms and conditions on the same master seniority list. This was linked to a base closure at Shannon. BA is not planning any base closures but will be expanding at our main base.

The closing of the Shannon base was not the reason for Aer Lingus starting a Belfast base. Both events happened during an uncertain time for Aer Lingus pilots, but the two events are not directly related. Following a ballot for industrial action, and mediation, Aer Lingus pilots represented by the Pilots Association IALPA secured a Global New Base agreement in October 2007. This agreement ensures all pilots employed by Aer Lingus have a place on a global seniority list. Similarly to BALPA's stance on OpenSkies terms and conditions, IALPA accepted that pilots employed at the Belfast base would be on different terms and conditions commensurate with the opening of a new base.

Q If OpenSkies is successful won't it take transfer traffic away from the mainline operation?

History demonstrates that we will take every opportunity to grow our mainline business. Should OpenSkies carry any of our passengers who previously transited LHR/LGW, the numbers will be small and will not detract from our plans to grow at London.

History is no indication of the future. Historically there was no right for a UK airline to fly from continental Europe to the US. The market between the two continents changed immeasurably with the signing of the Open Skies agreement.

Growth at London has not been defined. Does this mean more aircraft, more seats or bigger aircraft with routes? LHR is constrained by infrastructure problems which will still be present when BA moves to T5. Slots at LHR will command upwards of £30 million per pair going forwards as airlines clamour over each other to tap into the lucrative UK premium market. BALPA does not see LHR as a growth vehicle, in fact quite the opposite as BA's near monopoly position is attacked from every direction.

Q What command opportunities are available within mainline for BA pilots?

There will be significant opportunities within BA due to the planned longhaul growth.

"Planned", not certain. If OpenSkies grows as suspected, that longhaul growth will quickly evaporate. BA are unwilling to commit to anything more than "planned".

Our pilot numbers are planned to expand from today's 3253 pilots to an estimated 3518 by March 2009. The most junior pilot scheduled for command within the next training year joined BA in October 2001.

All forecasts are based on a plan which excludes the effect of a successful OpenSkies operation and a secondary hub in mainland Europe. Forecasts also neglect the overwhelming competition that will exist from March 2008 and beyond.

To date we have yet to realise the full effects of part time working and the onset of delayed retirement. We anticipate that this will have a positive impact on time to command.

But equally, this may be entirely offset by BA mainline work stagnating due to BA investing aircraft and routes with a successful OpenSkies at the detriment of mainline flying from LHR/LGW.

Q What are the consequences of a ballot result for strike action?

This will have a significant negative impact on our business, damage our reputation and it will jeopardize our future business plans.

BALPA does not take industrial action lightly. BALPA has not balloted its membership since 1996 and has not taken Industrial Action since 1979. BALPA will not allow BA to outsource work which is rightfully ours as defined in the intent of Schedule K.

The undertakings that have been offered by BA are based upon the expectation that the Company's business plans will not be adversely affected as a consequence of any industrial disruption by pilots.

An implicit threat by BA, accept our terms or our offer will be withdrawn and you will get nothing.

BALPA has no choice but to ballot for industrial action to secure the interests of its members. The undertakings given by the company fall some way short of what BALPA finds acceptable.

Q What does Schedule K say about scope?

Schedule K, Miscellaneous Agreements, includes a section headed 'Employment Security', which includes the following;

2.1 The **intent** of this agreement is to **promote employment security and career opportunities for Flight Crew on the British Airways Master Seniority List** (BA Mainline Flight Crew). This agreement seeks to take account of the concerns that the Association has in

respect of employment security and career development whilst not impeding the commercial development of British Airways plc.

2.2 With the exception of aircraft covered by para 2.9 [which refers to Regional Jet flying] it has been agreed between British Airways and BALPA that all flying in aircraft purchased or leased by British Airways, regardless of aircraft size, that operates in or out of London Heathrow and London Gatwick will be operated by British Airways Mainline Flight Crew. This is irrespective of whether operating under the mainline BA AOC or that of any of its subsidiaries.

2.3 This is not intended to mean that BA flight crew would operate only BA aircraft.

2.4 With the exception of aircraft covered by para 2.9 any British Airways flying anywhere in the UK, in aircraft purchased or leased by British Airways with 100 seats or more, will be flown by British Airways Mainline Flight Crew. For the purposes of clarity, removing the passenger seats from an aircraft that would normally fly with more than 100 seats (for example a B737-500) will not qualify that aircraft as one that could be flown by non mainline flight crew."

As we have already stated Schedule K is no longer fit for purpose. Deregulating the bilateral treaties between the two biggest aviation markets must surely lead to a revision of the agreement to reflect the new regulatory environment

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