

Economic regulation of Heathrow: programme update

CAP 1914



Published by the Civil Aviation Authority, 2020

Civil Aviation Authority,
Aviation House,
Beehive Ring Road
Crawley,
West Sussex,
RH6 0YR.

You can copy and use this text but please ensure you always use the most up to date version and use it in context so as not to be misleading, and credit the CAA

First published April 2020

Enquiries regarding the content of this publication should be addressed to: robert.toal@caa.co.uk

The latest version of this document is available in electronic format at www.caa.co.uk

Contents

Contents	3
About this document	4
Executive summary	5
Introduction	5
Main issues raised in this consultation	7
Next steps	9
Our duties	10
Structure of this document	10
Chapter 1	11
The strategic challenge	11
Introduction	11
Background	11
Short term priorities for developing new price control arrangements	12
Dealing with uncertainty	13
Views invited	17
Chapter 2	18
Next steps	18
Introduction	18
Engaging with stakeholders and wider processes	18
Overall timetable	19
Our next consultation	22
Views invited	23
Appendix A	24
Our Duties	24

About this document

This document provides an update on our programme for the development of the economic regulation of Heathrow Airport Limited (“HAL”) in the light of the very significant changes and uncertainties brought about by:

- the severe impact of the Covid-19 pandemic on the aviation sector as a whole and passenger numbers at Heathrow airport;
- the Court of Appeal’s decision setting aside the Airports National Policy Statement; and
- HAL’s subsequent decision to pause its programme for expanding Heathrow airport in the light of these developments (although it is appealing against the Court of Appeal’s decision).

It outlines our proposals for changing our overall approach to developing the regulatory regime for HAL in the light of these developments.

Views invited

We welcome views on all the issues raised in this document, especially on the issues set out in the executive summary and dealt with in chapters 1 and 2. Please e-mail responses to economicregulation@caa.co.uk by no later than 22nd May 2020. We cannot commit to take into account representations received after this date.

We expect to publish the responses we receive on our website as soon as practicable after the period for representations expires. Any material that is regarded as confidential should be clearly marked as such and included in a separate annex.

Please note that we have powers and duties with respect to information under section 59 of the Civil Aviation Act 2012 and the Freedom of Information Act 2000.

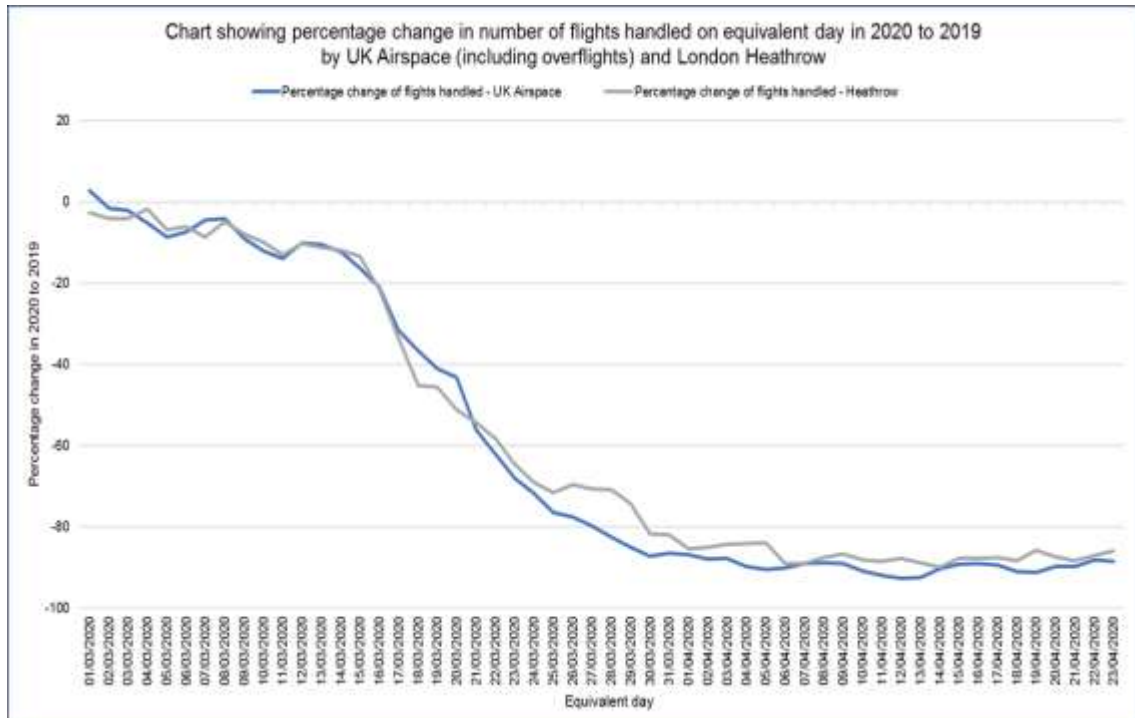
If you would like to discuss any aspect of this document, please contact Rob Toal (Robert.Toal@caa.co.uk).

Executive summary

Introduction

- Recent developments have had a fundamental impact on the global economy as a whole and especially on the aviation sector. The impact of the Covid-19 pandemic through international restrictions on travel and national rules discouraging all but essential journeys has had a dramatic impact on the level of air traffic. As indicated by Figure 1, initial data analysed by the CAA suggests that, as at 23rd April 2020, air traffic in UK airspace has reduced by over 85% from the equivalent period in 2019, with flights from Heathrow airport also reducing by a similar percentage.

Figure 1: Reduction in UK airspace (including overflights) and Heathrow traffic 2019-2020 as at 23rd April 2020



Source: CAA Analysis of EUROCONTROL data

- Prior to the full impact of Covid-19 being felt, the Court of Appeal delivered its judgment that the Airports National Policy Statement (“NPS”) had not been

lawfully produced.¹ This judgment removes the underpinning under the Planning Act 2008 which HAL was using to support an application for consent to expand Heathrow airport. This judgment is subject to the outcome of the appeal being sought by HAL in the Supreme Court and any review of the policy set out in the NPS carried out by the Government.

3. In response to these developments, HAL decided to pause its expansion programme in March 2020, stopping nearly all work and spending on preparing its application for planning consent and early construction activities.
4. The impact of Covid-19 has brought about very considerable uncertainty to the aviation sector as a whole and, in particular, the regulation of HAL. This uncertainty has many aspects, including:
 - for how long the current very low levels of traffic will last;
 - the timing and speed of subsequent recovery;
 - the future mix of passengers, airlines and aircraft type that might use Heathrow airport;
 - the impact of these factors on HAL's revenues from airlines and other commercial sources; and
 - the impact on financial markets and the consequences of all these matters for the financial viability of companies operating in the aviation sector.
5. In the light of this uncertainty and the Court of Appeal's decision on the NPS, it is unclear whether capacity expansion will proceed and at the very least there will be significant implications for the timeline of the capacity expansion programme. Nonetheless, HAL and airline stakeholders have told us that they want us to continue work on HAL's next price control, but with a focus on the "two runway" airport, with the intention of having a new price control in place from 1 January 2022. This is also necessary as the current price control for HAL expires on 31 December 2021. To reconfigure our work programmes so that we can work

¹ See: *R (Friends of the Earth) v Secretary of State for Transport and Others* [2020] EWCA Civ 214

towards putting these new price control arrangements in place, we will need to find ways of dealing with:

- the issues created by very low levels of air traffic; and
- the uncertainty about the timing and shape of the recovery in air traffic in the future and the impacts this is likely to have on HAL's revenues.

6. The paper outlines how we are seeking to respond to these challenges, including through changes to the regulatory programme and timetable.

Main issues raised in this consultation

7. The nature and extent of the uncertainties caused by the current circumstances mean that the range of plausible outcomes for the development of HAL's revenues over the course of the coming years is significantly wider and more difficult to predict than usual. These uncertainties also mean that the factual background against which the CAA will be taking its decisions will be dynamic and difficult to predict.
8. Of the issues outlined above, it appears that the impact of the Court of Appeal's decision and HAL's response in pausing its programme for the expansion of Heathrow airport is the more straightforward for us to address. We will refocus our work over the coming months to develop a price control that is suitable for a two runway airport. This price control will not need to address the complications brought by the very large capital expenditure associated with capacity expansion.
9. The challenges created by Covid-19 will present much greater difficulty and it would not be realistic to think of the work we should do to set new regulatory arrangements as a "business as usual" process. This is particularly the case because it is too early to know what the impacts of Covid-19 will be over the next few years. These impacts will also be affected by decisions that are made by the UK Government (including in relation to economy-wide and sector support packages) and decisions made by Governments around the world, especially in relation to "lockdowns" and travel restrictions, which will have an impact on the timing and shape of the recovery in traffic levels.

10. These impacts may create fundamental issues with little or no regulatory or commercial precedent to guide how they should be resolved. Therefore, our policy and approach will need to be sufficiently flexible to deal with new evidence and circumstances as they emerge.
11. In the longer term, we expect traffic levels to recover. In these circumstances, we would expect that the market positions of regulated airports may return to “pre-crisis” levels, although we recognise that it is simply too early to form a definite judgment on this.²
12. As for the expansion of Heathrow airport, the Government may choose to review the NPS with a view to dealing with the issues covered by the Court of Appeal’s judgment. Alternatively, that judgment could be successfully challenged at the Supreme Court. In these circumstances, we must retain the option of dealing with any proposals by HAL to reinstate the capacity expansion programme. Given the developments associated with Covid-19, it seems unlikely that we will see such proposals in the short term, but we retain the option of dealing with these matters in the future by adjusting or resetting HAL’s price control.
13. Therefore, we consider that it is appropriate for us to focus on a two runway price control and this paper sets out our high level views on:
 - the new strategic context, including the use of scenarios to help explore how the present uncertainty might start to crystallise in the likely future path of air traffic volumes, and airport costs and revenues. These should allow us to assess the best approach for setting HAL’s next price control. In particular, we will consider a range of options for the form and duration of the price control; and
 - the importance of a more flexible process and timetable, but with a continuing emphasis on the importance of constructive engagement.

² Irrespective of any short term practical difficulties that the current uncertainties might bring for the conduct of a market power determination, given the length of time that such a review would inevitably take, it would not be possible for the CAA undertake a market power determination in respect of Heathrow airport prior to setting the next price control for HAL. As such, the position remains that Heathrow airport has substantial market power for the purposes of CAA12.

14. As for the form of price control, we will need to consider whether any continuing uncertainty would be best dealt with through a traffic risk sharing mechanism or other “uncertainty mechanisms” within the price control. For instance, we could consider trigger mechanisms that might re-open or adjust the price control if circumstances turn out to be significantly different from those that we had assumed in setting the price control.
15. It will also be appropriate to consider whether such mechanisms can reasonably deal with any continuing uncertainty for a prolonged period and/or whether we will have sufficient information or certainty to set a price control for “normal” period of five years. While there are significant advantages of a longer duration control in normal circumstances, if necessary, we could set a shorter duration price control.

Next steps

16. We invite comments on the issues raised in this consultation by 22nd May 2020.
17. **Views are invited on any of the issues raised in this document and, in particular, on:**
 - **the focus of our work being on setting a price control for 2022 and beyond on the basis of a two runway airport;**
 - **the development of scenarios and the uses to which they should be put to inform decisions on HAL’s next price control;**
 - **our view that it will be important to consider whether the form and duration of the new price control should be adapted to deal with future uncertainty about the volume of air traffic;**
 - **our proposed approach to engaging with stakeholders, making greater use of workshops and a continuing emphasis on the importance of constructive engagement, less reliance on large set piece consultations and, where appropriate, the use of shorter consultation periods; and**
 - **the timing and scope of our future publications, including a further consultation in June 2020 and a way forward statement in early 2021.**

18. We intend to publish a further consultation in June 2020 which will deal with the points made by respondents in response to this programme update, set out a way forward and start to deal with specific issues in more detail.

Our duties

19. In developing this consultation, we have had full regard to our statutory duties under the Civil Aviation Act 2012 (“CAA12”), which are set out more fully in Appendix A.

Structure of this document

20. The structure of this consultation document is as follows:
- chapter 1 discusses the strategic challenge and our approach to setting HAL’s next price control; and
 - chapter 2 sets out more detail on our approach to engaging with stakeholders and other process issues.

Chapter 1

The strategic challenge

Introduction

- 1.1 Since early in March 2020, it has become increasingly clear that the impact of Covid-19, and government responses throughout the world restricting travel, have had a very severe impact on the level of air traffic globally, with movements at Heathrow airport no exception. This, and the high level of uncertainty about the future timing and path of the recovery in both traffic levels and airport revenues, creates fundamental uncertainties that we will need to address in the process and policies we use to develop new price control arrangements for HAL.
- 1.2 This chapter:
- provides further background on these strategic challenges;
 - sets out our short term priorities for developing new price control arrangements for HAL; and
 - discusses how we can best deal the uncertainty about future levels of passenger traffic.

Background

- 1.3 We understand that HAL's response to the collapse in air traffic and passenger numbers has been to take very significant actions to conserve its financial resources. In addition to pausing its capacity expansion programme, it has:
- halted other discretionary capital expenditure;
 - reduced other expenditure (including by making redundancies); as well as
 - made use of the UK Government's "furloughing" scheme further to reduce its operating costs.
- 1.4 At the same time, airlines have been drastically curtailing or ceasing their operations and have been accessing the economy-wide support schemes

introduced by Government (and in some instances requesting further financial support from the Government) to facilitate their survival during this extraordinary period.

1.5 Nonetheless, our ongoing engagement with both HAL and airline stakeholders indicates that they strongly support us in continuing to work on HAL's next price control, provided that we:

- focus on a two runway operation; and
- find ways to work with the current levels of uncertainty.

Short term priorities for developing new price control arrangements

1.6 HAL's regulated revenues come from the airport charges paid by airlines. As demand has collapsed in a way that represents a very significant challenge to the sector as a whole, price control levers can do relatively little to support the financeability and liquidity either of HAL or its airline customers.

1.7 Furthermore, given the significant challenge facing airline finances, they might struggle to pay the current levels of airport charges and would be unwilling and/or unable to pay any price increases that might arise from regulatory intervention. Significant levels of spare airport capacity across the south east of England might also give some airlines options in the short term for avoiding increased charges.

1.8 In these extraordinary circumstances, all parties must do what they reasonably can to protect their liquidity and financeability, including, where appropriate, by seeking additional support from shareholders and other, and exploring the opportunities provided by Government support schemes. As noted above, HAL and airlines have already taken a number of important (and difficult) steps with respect to these matters.

1.9 Given that:

- the price control tools that the CAA has are unlikely to be effective in the short term (particularly during 2020); and

- HAL and airlines agreed a commercial deal to cover the level of airport charges during 2020 and 2021

our focus will necessarily need to be on those matters where we can be most effective. In particular, it will be on developing new price control arrangements for 2022 and beyond for a two runway airport, when the level of air traffic should be recovering. Nonetheless, if HAL were to raise issues with us that relate to the shorter term financeability of its business, we would give these matters due consideration, consistent with our statutory duties as a whole (including our secondary duty to secure that HAL is able to finance its licensed activities).

Dealing with uncertainty

Overall approach

- 1.10 The current impacts of the Covid-19 pandemic bring unprecedented uncertainty about the future circumstances to which our approach to economic regulation will need to respond. These uncertainties include:
- Government decisions on the duration of “lockdown” and travel restrictions, how they are lifted and how long it will take for traffic levels start to recover;
 - the speed and shape of the recovery in air traffic;
 - the mix of passengers (including transfer passengers), airlines and aircraft type that might use Heathrow airport in the future;
 - the impact on airlines’ commercial viability;
 - the impact of these factors on airports’ revenues from airlines and other commercial sources;
 - whether new processes are required at airports because of Covid-19, and the costs of those processes;
 - what the conditions will be in financial markets over the period of the new price control;
 - Government decisions on the duration of existing support packages such as its “furloughing” scheme and whether to make any sector specific support packages available;

- whether any financeability issues may arise for HAL; and
- whether there will be any lasting any impact on HAL's market power and the implications that this may have for the regulation of Heathrow airport.³

1.11 Some of these uncertainties will start to resolve over the remainder of 2020 and 2021, but will nonetheless cause difficulties with the price review process, as this is the time during which we need to be developing and fine tuning new price control arrangements. Other uncertainties may take longer to resolve. Therefore, it would be inappropriate for the CAA simply to wait for events to develop in such a way that matters become clear. In particular, the commercial deal that HAL agreed in 2019 with airlines in respect of airport charges is time limited and will end at the end of 2021, at the same time as the current price control. So, it is important to commence work in a timely manner to allow new price control arrangements to be developed in an orderly way and consistent with the interests of consumers.

1.12 We also need to recognise that, if the rate of recovery of air traffic is relatively slow, this may create very significant challenges in terms of the affordability of HAL's charges and could put increased pressure on HAL's financeability.

The use of scenarios

1.13 Given the current uncertainties and the need for the CAA to make progress on HAL's price control, it will be important for us to work with stakeholders and identify potential scenarios for the recovery in air traffic and the efficient level of airport costs associated with each scenario. The use of scenarios should support the development of new regulatory arrangements which are suitable to deal with different patterns of recovery in air traffic that might emerge. To achieve this aim, the scenarios will need to be developed carefully so that they assist analysis and decision making, rather than simply create a large number of possible scenarios which do not assist practical decision making.

1.14 We will look to HAL and other stakeholders to:

³ See paragraph 11 of the Executive Summary and footnote 2.

- bring forward scenarios that illuminate an appropriate range of different recovery scenarios for air traffic; and
- suggest how these can be best used in the process of setting HAL's next price control.

1.15 It will also be important for HAL to develop forecasts of costs and commercial revenues consistent with those different scenarios for passenger air traffic. To the extent it is practicable and appropriate, this should draw on work HAL has already completed in its Initial Business Plan ("IBP"), including in relation to the research it has conducted on consumer preferences and priorities. In parallel, as we develop our own views, we will engage with stakeholders to understand their views on different scenarios for conditions in the financial markets, including in relation to the costs of debt and equity finance. We anticipate that our engagement with stakeholders in relation to these matters will include both formal consultations, discussions and workshops.

Impact on the form and duration of HAL's price control

- 1.16 The work on scenarios should help inform our decisions on the form and duration of the new price control, especially if uncertainty about the future of air traffic, costs and commercial revenues at Heathrow airport continues for an extended period.
- 1.17 As for the form of price control, we will need to consider whether any continuing uncertainty would be best dealt with through a traffic risk sharing mechanism or other "uncertainty mechanisms" within the price control. For instance, we could consider "trigger mechanisms" that might re-open or adjust the price control if circumstances turn out significantly different from those that we had assumed in setting the price control.
- 1.18 It will also be appropriate to consider whether:
- uncertainty mechanisms can reasonably deal with any continuing uncertainty over a prolonged period; and/or

- we will have sufficient information or certainty to set a price control for “normal” period of five years or whether a shorter duration might better protect the interests of consumers.
- 1.19 Given the potential importance of these matters to HAL and airlines (and so to consumers), we will need to consider the timing of this work and whether there would be advantages in starting to discuss options for the form of control with stakeholders over the coming months.
- 1.20 There could also be circumstances where it is appropriate to consider more fundamental changes to the form of the price control. For instance, economic regulation takes the form of a lighter touch commitments framework at Gatwick airport, where commercial arrangements between the airport and airlines have a much greater role in determining prices and service levels.
- 1.21 We retain an open mind as to the appropriate form and duration of the price control to apply from the start of 2022. We will look to work with stakeholders over the coming months on these matters and for HAL to set out its views in its revised business plan (“RBP”) later this year.

Streamlining and adapting our processes

- 1.22 In normal circumstances, we would already be well into the two year process for developing a new price control for HAL.⁴ However, these are not normal circumstances and we will need to respond accordingly. As far as practicable (and while continuing to act consistently with the requirements of CAA12) we will seek to adopt a more flexible process to:
- allow us to take account of new information as it emerges during 2020 and 2021; while
 - ensuring that new arrangements to protect consumers are put in place for 2022 and beyond.

⁴ HAL issued its IBP (which assumed that the expansion of Heathrow airport was to proceed) in December 2019 and was carrying out constructive engagement with airlines when the current events overtook this work.

- 1.23 To do this, our focus will be on a two runway Heathrow airport. Should the programme for the expansion of Heathrow restart, we would look to address this by means of a (very significant) “add on” or “refreshing” of the new price control, which we would look to implement in 2023 or later, depending on the circumstances.
- 1.24 This approach, as indicated above, will require us to place a greater reliance on informal engagement with stakeholders and a more flexible approach to consultation. Facilitating this, we will seek to carry out as much of this work in-house as is reasonably practicable, not only to maintain flexibility but also to ensure that the regulatory costs to the sector are reasonable and proportionate.

Views invited

- 1.25 Views are invited on all the issues raised in this chapter and, in particular, on:
- that the focus of our work should be setting a price control for 2022 and beyond on the basis of a two runway airport;
 - the development of scenarios and the uses to which they should be put to inform decisions on HAL’s next price control; and
 - our view that it will be important to consider whether the form and duration of the new price control should be adapted to deal with future uncertainty about the volume of air traffic.

Chapter 2

Next steps

Introduction

- 2.1 This chapter describes our next steps for setting HAL's next main price control. It builds on the proposals in chapter 1 for a more flexible approach to our process, consistent with adapting to the present levels of uncertainty.
- 2.2 It covers the following issues:
- engagement with stakeholders;
 - the overall timetable for the H7 price control review; and
 - our June 2020 consultation paper.

Engaging with stakeholders and wider processes

- 2.3 Given the need for us to develop a streamlined approach to developing the next price control for HAL, we intend to adopt a more flexible approach to consulting and engaging with stakeholders in the coming months. It will be important for us to gather the evidence necessary to ensure that our decisions are robust, but we may place less reliance on large "set piece" consultations, while continuing to engage with stakeholders through discussions and workshops.
- 2.4 It will also be important to ensure that our approach continues to capture the benefits of constructive engagement between HAL and its airline customers. This is a key part of the process for developing HAL's RBP and the wider price control review process. We will encourage and support airlines so that they can play a full part in this process, including in respect of developing and assessing scenarios and in considering options in respect of the form of the price control.
- 2.5 In addition to the processes for constructive engagement, we encourage both HAL and airlines to continue to engage and seek agreement on commercial

matters. Where appropriate, we will take account of these initiatives in setting the price control or developing broader aspects of the regulatory framework for HAL.

- 2.6 We will also need to build on the good work that the Consumer Challenge Board (“CCB”) did on consumer engagement in the run up to HAL’s IBP. We will continue to put the interests of consumers at the centre of our work, and we expect HAL to consider how best to take forward the key findings of the CCB on its IBP (which will be published shortly) in developing its RBP. Later in the price review process, we may either reconstitute the CCB or will find an alternative approach to ensure that we properly assess HAL’s work and approach to consumer engagement.
- 2.7 Where we do issue formal consultations and working papers, these may be subject to shorter deadlines for responses than in the past. That said, we will continue to ensure that stakeholders have an appropriate length of time to respond and make the points that they regard as most important. As noted above, this will include more use of discussions and workshops.
- 2.8 Towards the end of the price control process, we will be bound by, and will continue to comply with, the requirements of CAA12 in relation to the development and implementation of new licence conditions.

Overall timetable

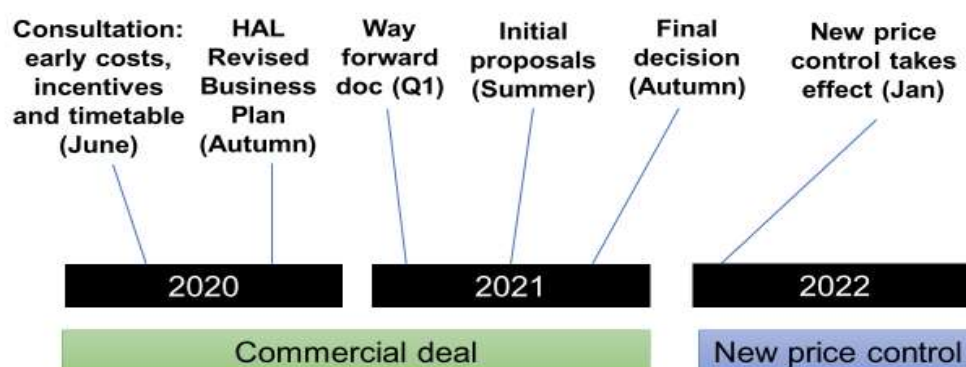
- 2.9 We envisage that our next publication will be a further consultation in June 2020 that updates on feedback and responses to this high level consultation on our broad approach. It will also provide a more detailed update on our developing thinking on key issues for setting the H7 price control, including:
- our feedback on HAL’s IBP (with a focus on those issues most relevant to setting a two runway price control);
 - efficiency incentives; and
 - financeability and the cost of capital.
- 2.10 It will also cover issues that remain to be resolved from our earlier work on capacity expansion, including the regulatory treatment of the approximately £500

million in early costs that HAL spent on preparing for capacity expansion (building on our December 2019 consultation on these matters). Further information on the June consultation is set out below.

- 2.11 In parallel to our work on this consultation, we encourage HAL to work with airline stakeholders on constructive engagement in the coming months, with a particular focus on developing likely scenarios for passenger traffic, airport capital and operating costs and commercial revenues.
- 2.12 Looking further ahead, we expect HAL to produce a high quality RBP in the Autumn of 2020 although it is likely that significant uncertainties will remain at this stage and these will need to be reflected in the RBP. We consider that letting the RBP slip any later than this would make the process for setting a revised price control in 2021 particularly difficult. Nonetheless, it would be important to retain the flexibility for us to request further updates of business planning information from HAL in 2021, if evolving circumstances mean this would be appropriate. The RBP should reflect:
- the outcomes from the constructive engagement process;
 - HAL's latest thinking on traffic scenarios and efficient levels of costs; and
 - HAL's views on the form and duration of the price control arrangements best suited to dealing with any residual uncertainty.
- 2.13 We will provide more detailed guidance on our expectations for the contents and timing of HAL's RBP in June.
- 2.14 Given both:
- the likelihood that a heightened level of uncertainty will persist into 2021; and
 - the important contribution that airlines have to the overall price control review process

it will be important for airlines to stay actively engaged in the process following HAL's RBP. For example, it is likely that the final shape of HAL's capital programme and other key price control building blocks will not be fully settled until later in 2021.

- 2.15 We hope to be able to start to crystallise our thinking on the form and duration of the price control in early 2021 in a “way forward” document, to allow discussions and consultation on the next price control to proceed on a reasonably focused basis. This would then be followed by initial price control proposals in early summer 2021 and final proposals later in 2021.
- 2.16 Implementing a new price control so that it is ready to take effect from 1 January 2022 will be challenging. We will seek to work constructively with all stakeholders on these matters and with the intention of providing in a timely way as much certainty as is reasonably practicable about the level of airport charges that should apply in 2022.
- 2.17 Nonetheless, all parties will need to understand that some of the issues we may face will be new, fundamental and take time to consider in the interests of consumers. Stakeholders should also be aware that the procedural requirements of CAA12 mean that statutory consultation is required before licence modifications can be finalised, and both HAL and airlines have rights of appeal to the Competition and Markets Authority (CMA).
- 2.18 Figure 2 sets out a high level indication of this revised timetable for setting a new price control.

Figure 2: Indicative revised timetable

Source: CAA

Our next consultation

2.19 As for our next publication, we intend to publish this in June 2020. Our current intention is for it to cover the following issues:

- our broad approach to setting HAL's price control, picking up on the issues set out in chapter 1;
- our views on HAL's December 2019 Initial Business Plan, to the extent that elements of it remain relevant;
- further guidance for HAL on the preparation of its RBP and the information it should contain, due for publication in the autumn of 2020;
- our approach to issues around financeability and the cost of capital, including updating our thinking in the light of the CMA's work on the cost of capital in relation to its determination of price controls for NERL and a number of water companies;
- the development of incentives for efficient capital expenditure by HAL;
- the treatment of the early costs of expanding Heathrow airport that have been incurred by HAL; and

- other outstanding elements from the programme for the expansion of Heathrow that need to be addressed this year.

2.20 As noted above, we expect that the spring and summer of 2020 will be used for constructive engagement between HAL and its airline customers. We currently expect key issues in this engagement to include:

- how long it will take for traffic levels start to recover;
- the speed and shape of the recovery;
- the mix of passengers (including transfer passengers), airlines and aircraft type that might use Heathrow airport in the future;
- the development and use of scenarios for passenger numbers;
- capital expenditure and other price control building blocks;
- options for the form and duration of the price control; and
- risk sharing.

2.21 Where appropriate, we will also publish further working papers on key technical issues.

Views invited

2.22 Views are invited on the issues raised in this chapter, in particular on:

- our proposed approach to engaging with stakeholders, making greater use of workshops and a continuing emphasis on the importance of constructive engagement, with less reliance on large set piece consultations and, where appropriate, the use of shorter consultation periods; and
- the timing and scope of our future publications, including a further consultation in June 2020 and a way forward statement in early 2021.

Appendix A

Our Duties

1. The CAA is an independent economic regulator. Our duties in relation to the economic regulation of airport operation services (“AOS”), including capacity expansion, are set out in the CAA12.
2. CAA12 gives the CAA a general (“primary”) duty, to carry out its functions under CAA12 in a manner which it considers will further the interests of users of air transport services regarding the range, availability, continuity, cost and quality of AOS.
3. CAA12 defines users of air transport services as present and future passengers and those with a right in property carried by the service (i.e. cargo owners). We often refer to these users by using the shorthand of “consumers”.
4. The CAA must also carry out its functions, where appropriate, in a manner that will promote competition in the provision of AOS.
5. In discharging this primary duty, the CAA must also have regard to a range of other matters specified in the CAA12. These include:
 - the need to secure that each licensee is able to finance its licensed activities;
 - the need to secure that all reasonable demands for AOS are met;
 - the need to promote economy and efficiency on the part of licensees in the provision of AOS;
 - the need to secure that the licensee is able to take reasonable measures to reduce, control and/or mitigate adverse environmental effects;
 - any guidance issued by the Secretary of State or international obligation on the UK notified by the Secretary of State; and
 - the Better Regulation principles.

6. In relation to the capacity expansion at Heathrow, these duties relate to the CAA's functions concerning the activities of HAL as the operator at Heathrow.
7. CAA12 also sets out the circumstances in which we can regulate airport operators through an economic licence. In particular, airport operators must be subject to economic regulation where they fulfil the Market Power Test as set out in CAA12. Airport operators that do not fulfil the Test are not subject to economic regulation. As a result of the market power determinations we completed in 2014 both HAL and Gatwick Airport Limited are subject to economic regulation.
8. We are only required to update these determinations if we are requested to do so and there has been a material change in circumstances since the most recent determination. We may also undertake a market power determination whenever we consider it appropriate to do so.