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Sent by email to economicregulation@caa.co.uk

Proposal to modify NATS (En Route) plc licence in respect of certain planning and reporting requirements under Conditions 10 and 10a: Notice under section 11(2) of the Transport Act 2000

Dear Rod,

Thank you for the opportunity to respond to the consultation on modifying the NATS (En Route) (NERL) licence. This is the response of British Airways (BA), part of IAG, one of the world's largest airline groups with 523 aircraft flying to 255 destinations and carrying 96.9 million passengers each year and over 600 thousand tonnes of cargo.

The CAA proposes (i) changes to the detailed technology and airspace programmes for the remainder of Reference Period 2 (RP2) and outline programmes for Reference Period 3 (RP3), and (ii) introduction of an Independent Reviewer (IR) to review NERL programme reporting. In effect these changes will push back delivery of LAMP Phase 2 and the raising of the UK Transition Altitude (TA) to 18,000ft until sometime in RP3 (2020-2024).

BA is extremely disappointed and frustrated by the open-ended delays to LAMP Phase 2 which is desperately needed to modernise UK airspace and provide the much-needed extra capacity and resilience needed to protect our customers, the flying public, from even lengthier air traffic control related delays. The CAA must take control of this situation and provide leadership to ensure that this modernisation is delivered as soon as possible.

With the CAA's proposals airlines and stakeholders will not get an outline view of the RP3 programme until mid-2018 and there is no firm delivery date for later delivery of LAMP Phase 2 – in effect the delay is open-ended. Whilst some components of LAMP Phase 2 may still be delivered in RP2 the full and sustainable benefits of the whole programme will not be fully realised until Phase 2 is fully delivered at a later, yet to be specified, date. The CAA should be placing a clear delivery date on NERL for LAMP Phase 2, or at the very least critical elements of the entire programme that can be independently worked on and delivered as early as possible.

Delays to LAMP Phase 2 result in a situation where the long-term, meaningful and sustainable benefits we had agreed to be delivered in RP2 are not in place for the start of RP3 – in effect we will start RP3 in a more challenging environment than anticipated, to the detriment of the environment, London airports and the UK aviation sector, airline users and, ultimately, passengers. Without LAMP Phase 2 customers will continue to fly in congested and inefficient skies, absorbing the delay costs imposed by legacy airspace structure, despite the RP2 determination having previously agreed the capital programme and associated charges necessary to deliver that programme. This situation must be addressed with a clear roadmap articulated for NERL delivery of all elements of LAMP Phase 2, overseen by the CAA.

The remainder of this letter addresses the proposed licence modifications and elements of the CAA's proposals around modifying the NERL licence.

RP2 & RP3 technology and airspace programmes

BA can support the proposed 31st March 2017 deadline for NERL to provide revised detailed technology and airspace programmes for the remainder of RP2. However, as many of the components that will form part of that revised programme are already known, and some will remain from the original RP2 plan, our expectation is that NERL should be able to present an overview of their thinking in regards to what they will be able to deliver in the remainder of the RP2 period as part of the 2017 SIP process, and take the views of the industry into account in producing the plan they would then submit by 31 March 2017.

Furthermore paras 5, 6, 7, and 8 of the proposed Condition 10 should be amended to remove the ability of NERL and the CAA to bilaterally agree later dates for these programmes. As already expressed, the continued and ongoing open-ended delay in the date by which airspace users can expect LAMP Phase 2 to be delivered is extremely frustrating and we really do need some leadership and accountability for delivery to be exerted here. BA would suggest that these paras should read: "By [date] the Licensee shall provide the CAA ..."

BA welcomes the requirement for NERL to report against SESAR implementation of ATM functionalities as set out in Commission Implementing Regulation (EU) No 716/2014 (revised Condition 10 para 4). BA would like greater visibility of the options for components to remain in RP2 and components to be brought forward from RP3 and CAA should progress this with NERL immediately. BA is willing to work with NERL on identifying components that could form part of the revised RP2 programme.

Independent Reviewer

In the first instance BA would expect the CAA to have the capability to effectively oversee and challenge NERL on its programme reporting, this function, after all, being clearly in your remit. BA might be persuaded that there could be merit in having an independent view to provide assurance to the CAA, but we would ask the CAA to provide more clarity on the role, responsibility and the anticipated costs and benefits of the IR. We would like to understand how an IR would be appointed, including an understanding of how the Terms of Reference for the IR would be agreed ahead of appointment and details of how a selection process would be run.

The CAA should also outline whether the IR function will be wholly or partially in addition to or instead of the CAA's function as a reviewer of NERL. Assuming at least a partial relinquishing of associated

workload from the CAA to an IR BA would anticipate that if the IR is introduced there would be a reduction in CAA charges as a result. Please can the CAA detail to degree to which their charges to industry would reduce as a result of this proposed change?

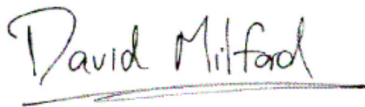
The CAA's proposal for NATS to make an application to the NERL component of the FAS Facilitation Fund would appear to be a reasonable approach to funding the IR at this time, but this potential source of funding cannot be guaranteed, either in the short term or the longer term and as such we must assure ourselves that this approach is not being adopted on the basis that it would be funded by "free" money. The proposal must stand-alone in terms of its ability to justify itself and we do not currently have enough understanding of the proposal to support it.

UK Transition Altitude

BA is not aware that an official decision has yet been made to delay raising UK TA to 18,000 feet. The NATS SIP 2016, which referenced this proposal, has also not yet been officially accepted. However if we accept that raising TA to 18,000 feet does not happen in RP2 BA sees no benefit in an interim step to raise TA in controlled airspace to 6,000 feet instead, which was mooted at the Interim SIP meeting held on 12th May 2016 and attended by the CAA. Whilst this issue is not specifically part of this consultation we are keen to express our view that spending £4.5m of our money to deliver a harmonised TA of 6,000 feet in RP2 would be a waste of money. BA and other airlines are already used to operating to different TA's in different countries and can continue to operate in this way until the TA rise to 18,000 feet can be delivered. Furthermore as the proposal only applies to controlled airspace there would not be an operational benefit to NATS as their systems will still have to cater for a different TA outside of controlled airspace.

If you have any queries on this response please contact me at david.milford@ba.com.

Yours sincerely,



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