



24 September 2014

# **NTUS Response on CAP 1205 NERL Oceanic Charges: Proposals for a charge cap - 2015-2019**

## **Introduction**

1. The NATS trade Union Side (NTUS)<sup>1</sup> would like to make representations and provide the following comments on CAP 1205.
2. Given the UK state approach over the last 10 years following the PPP process it would be consistent to continue to regulate Oceanic Services. This must be proportionate and not create too much of a burden on the ANSP. We feel that as the pricing structure is different and the service specialised, that caution should be taken in racing to reduce costs, particularly set against expected investment in technologies in the upcoming reference periods.
3. In view of the fact that the European Commission has attempted to include Oceanic Services within the Single European Sky legislation, it is politically dangerous and contradictory to then use the rationale applied in respect of the performance scheme. Surely the question will be asked “if the same approach is being taken, then why not regulate in the same way, and integrate oceanic services in to the performance scheme?”
4. Given that the basis of the proposal is not to adopt a *full* SES style structure, with the exception of the timescales, why is the CAA adopting *any* of the SES structure? The SES structure is designed as a package, against specific targets on a performance based approach. It is difficult to justify adopting a partial approach when set against trying to defend the Oceanic service from being integrated into SES and when it has no performance targets to achieve. The CAA approach appears to impose a price cap - indeed a price reduction - purely on the basis that it is a monopoly operation. The imposition of a price cap, whilst using some rationale used for RP2 (without a performance approach and without any of the other areas), seems to lack a sound rationale.

## **Response to Chapter 3 - Issues**

5. The NTUS feels the overall approach to harmonise the Oceanic price control *timescales* with that of the EU Reference Periods is the right way forward. We also agree with a simplistic approach with respect to regulation reducing unnecessary administrative burden and cost in a relatively small area of the business.
6. The shift from a RPI based approach to a CPI based approach is consistent with the CPI measure used in other areas of the business, and we support this. The resulting transitional arrangements appear to either cancel out or are of relatively small magnitude and offer little detriment, within the context of the larger NERL business.

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<sup>1</sup> The NATS Trade Union Side (NTUS) comprises representatives from Prospect and PCS representing air traffic controllers, air traffic engineers and specialists and air traffic assistants in NATS.

7. The NTUS is keen for investments to be made which increase levels of safety, capacity, and the associated environmental benefits. Our members in all areas of NATS consistently provide tactical direct routes and optimised cruising levels and often this goes unrecognised or is taken for granted. We broadly support methods to enhance airspace management, which provide fuel savings, provided the social dimension is taken into account. Although the CAA approach does provide a method for allowing improvements to be funded, it is important that the facility for the cap to be re-opened is straightforward and not overly bureaucratic. Should NERL and its customers decide that investing in new technology is of mutual benefit we would urge that the re-opening of the price cap is dynamic and relatively expeditious in order to reduce administrative burden and to provide clarity over the level of funding in order to implement the new technology in a reasonable timescale.

#### **Response to chapter 4 – Projections for 2015-2019**

8. The NTUS fully supports the position of the UK state and NATS that Oceanic services should remain outside of the EU Single European Sky initiative, consequently principles used by the CAA in that regulatory settlement should not form the basis for determining the Oceanic services regulatory approach. As mentioned in the introduction of this response, we believe the UK state will find it politically difficult to justify the exclusion of Oceanic services from SES regulations if it uses elements of the SES regulatory approach to determine Oceanic price controls.
9. Furthermore the NTUS would suggest a modification of the NATS licence to better define that portion of NERL subject to the SES performance scheme. Currently the reference to ‘Eurocontrol Business’ is somewhat misleading and could refer only to the ‘cost’ part of the performance scheme.
10. The NTUS has previously responded on the CAA’s approach to staff costs, and once again we wholeheartedly reject the proposals. We have demonstrated as per appendix A of the NTUS response to the RP2 consultation response that the benchmarking ‘IDS’ study used as a basis of evidence is flawed. Prospect’s own research department and NATS independently examined this study and found numerous inconsistencies and less than robust approaches used. Ultimately this study is opinion based on incomplete data and has no place being used as a baseline for the interventions made by the CAA over and above the NATS RBP in respect of this consultation.
11. The interventions based on the IDS study and pension cost pass through must be discounted. Given that the CAA’s decision on pension pass through has been altered for the RP2 Performance Plan, the same approach should be adopted for the allowance for pension pass through for Oceanic staff.

12. Despite being proposed by NATS we feel that the reduction in price is overly punitive. Whilst we accept that NATS has a responsibility to its customers, and they inevitably view a price decrease as desirable, given the specialised nature of the operation and cost efficiencies already made by our members as a result of the RP2 process, we feel that the reduction in price of this scale is unwarranted.
13. That said we accept it has been proposed by NATS and we would support a cost reduction of that stated in the NATS RBP, and provided the other CAA interventions are discounted. We would reluctantly accept the NERL RBP figure with the cost of capital intervention.
14. The lack of any risk sharing mechanism should also be taken in to account and also forms part of our rationale for not imposing any further interventions as per para 11 above.

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