

economicregulation@caa.gov.uk

28th November 2023

IAG response to the Draft Terms of Reference (“ToR”) for the Independent Review (“IR”) of HAL’s cost allocation methodology for the Other Regulated Charges (“ORCs”)

Dear David

Thank you for the opportunity to respond to the draft ToR for the IR of HAL’s cost allocation methodology for ORCs. We have reviewed your letter and appendix and we comment as follows. This response is on behalf of Aer Lingus, British Airways and Iberia.

All the information we have provided in this response should be considered strictly private and confidential.

IR Approach

In terms of the IR approach, we note that in January/February 2024, HAL will procure and appoint the independent reviewer following engagement with the CAA and ORC users. In this regard, for the benefit of all parties, we would ask the CAA to clarify details of this engagement with ORC users and whether the ORC users will have the ability as part of this engagement to assist in the selection of the independent reviewer. We would expect for HAL to agree the appointment of the independent reviewer together with the CAA and the ORC users and for the CAA to reserve the right to appoint the independent reviewer if no agreement can be reached.

CAP 2591 contains an ORC Protocol Principle of Independent Assurance. We appreciate that the primary aim of the periodic review should be able to provide assurance on cost allocation to ORC users on a forward looking basis. As the CAA has set the scope of this IR following views from ORC users, we would appreciate confirmation as to whether a similar approach will be taken with the periodic reviews as with this IR i.e. that the CAA and ORC users will be engaged on the scope of the periodic reviews by HAL.

Whilst the ORCG should be kept informed in this matter as they will ultimately have to consider the pricing changes from 2025 and management of the communication, the scope of this work and its understanding should also be with LACC (or a subset) as they have been involved with regulation, H7 and the single till impact, rather than it be limited to ORCG alone.

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Scope of the IR

The review should also take into account the **materiality and timescales** by which these costs should be recovered. Given there has been three years of non-collection, it seems unlikely the amounts unrecovered will be paid to airlines within the H7 period.

In terms of assessing whether the costs are allocated on a **fair and reasonable** basis, the airlines were not contemplating increasing charges for non-airlines from Q5 and Q6 (on a real basis) and therefore any commercial impacts between HAL and the non-airlines should be for HAL to resolve.

The airlines' position was that the airlines and non-airlines were kept the same between control periods on a total basis, that this has not happened should be resolved by HAL, particularly given the airlines raised this as part of **constructive engagement**. It should be noted that IAG are not expecting an assessment of capital efficiency as part of this review.

We would also suggest that the scope of the IR includes assessing the benefits of transferring all direct costs associated with airline only ORCs into the Airport Charges (to include Baggage and HBS). The outcome of the review, and any improvements suggested, should feed into the CAA's H7 lessons learned and, ultimately, into the subsequent H8 regulatory period.

Evidence Guidance

Relevant sources of evidence for the IR should also include:

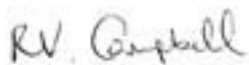
Full transparency of HAL contractual arrangements (in the same vein as HAL should fully disclose information to the CAA in order for any disputes to be properly resolved).

A full cost build of all ORC services to the lowest level of granularity available within HAL's internal modelling, to ensure full transparency of costs and financial drivers.

Consideration of the amounts that HAL were charging for annuities and overheads prior to H7 as a benchmark. This approach was accepted and deemed reasonable for at least two settlement periods (Q5 and Q6) given what was proposed was effectively keeping prices flat for non-airline users. We were not looking to change anything in relation to costs/prices for these fixed charges for non-airline users, so an assessment of fairness and reasonableness should take this into account.

We look forward to hearing from you once you have had the opportunity to fully consider all the stakeholder responses.

Yours sincerely,



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