

*Strictly Private & Confidential*

29 October 2021

**UK Civil Aviation Authority**  
**Aviation House**  
**Beehive Ring Road, Crawley,**  
**West Sussex, RH6 0YR**  
**United Kingdom**  
**Email: [economicregulation@caa.co.uk](mailto:economicregulation@caa.co.uk)**

*By email*

**Re: CAP2245: Economic regulation of NATS (En route) plc: consultation on licence modifications to implement exceptional measures.**

Dear Sir/Madam,

I refer to the above issue and the CAA's invitation for views published on 5 October.

Ryanair welcomes the present consultation to review the proposed licence modifications of NATS (EN Route) plc (NERL) in light of the impact of the COVID-19 pandemic, subject to the following comments.

### **1. Traffic risk-sharing mechanism**

Ryanair supports the proposed licence modification to disapply the automatic traffic risk-sharing mechanism for 2022 charges. A failure to do so would result in a significant and unaffordable increase in 2022 unit rates at a time when airlines must be supported to rebuild traffic volumes following the C19 downturn.

We request clarification on the following statement, "*we expect to take a consistent approach at the NR23 price control review when considering automatic recovery of 2021 and 2022 allowed revenues*". Can you please confirm how the CAA intends to approach the alleged 'lost revenues' of 2021 and 2022 (in 2023 and 2024 charges respectively)? Will this be discussed in the NR23 consultation process or will they be deferred in line with 2020 'lost revenues'?

As we near the end of 2021, it is disappointing that the CAA and NATS still cannot provide visibility of expected unit rates for 2023 and 2024 in line with European counterparts. This is a significant challenge when preparing budget forecasts and hinders operational planning.

Ryanair does not support any proposal to recover 'lost revenues' especially over a time as long as two price control periods. We further object to any proposals to include these amounts within the RAB if doing so would result in a WACC charge against these amounts. It is inappropriate to consider providing allowances for financing costs given that 5-year bonds were being offered at extremely favourable rates during C19. Finally, Ryanair does not support any proposal to

account for the time value of money in TRS recovery. This would have the effect of artificially increasing unit rates retrospectively and unduly penalising airlines for circumstances outside of their control.

The above illustrates the clearly defective risk sharing arrangements in place which unfairly penalise airlines for circumstances beyond their control. In order to provide financial certainty to airlines and support the growth of the industry following C19, we urge the CAA to build on the proposed licence modifications and prevent NATS from charging airlines for a service they could not use over the past 18 months or penalise airlines for NATS' unwillingness to reduce costs. Ryanair supports the CAA's proposal to set price control arrangements on the basis that NERL's shareholders should provide the necessary support to the business as would occur in a normal market environment.

## **2. Service quality incentives**

It is outrageous to consider the awarding of performance bonuses at a time when airlines were not flying. Ryanair welcomes proposals not to award performance bonuses to NERL for 2020 to 2022 in light of the significant reduction in traffic volumes. We urge the CAA to extend this positive action until traffic returns to 2019 levels in the absence of amendments to the current performance targets.

We do not support NERL's proposal that it should not be subject to penalties for the same period that bonuses are disallowed. Ryanair has maintained regular communication with NATS and provided prompt notification of traffic development plans which complements data provided via STATFOR publications. There is no reason therefore, that traffic volume changes should exempt NATS from meeting already unambitious performance targets.

Finally, we request clarification of the baseline being referred to in Paragraph 2.7, is this dependent on the traffic forecast agreed as part of the NR23 consultation period or another baseline previously used in calculations?

## **3. Other licence modifications**

We look forward to receiving confirmation of 2019 and 2020 3Di performance to assist with NR23 consultation meetings and general business planning. Pending further clarification as part of the NR23 consultation process, Ryanair cannot currently support the proposal to include incentives related to the 3Di metric.

Please do not hesitate to contact us if you have any queries or would like to discuss.

Yours sincerely,



Conor Gillardy  
**ATM Manager**