



Civil Aviation Authority – Economic Regulation
By e-mail only

Transport for London
City Planning

5 Endeavour Square
Stratford
London
E20 1JN

tfl.gov.uk

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Dear Sir, Madam,

Economic regulation of Heathrow consultation

I am writing further to publication by the Civil Aviation Authority (CAA) of the CAP 1940 consultation on the economic regulation of Heathrow Airport Limited (HAL).

It is clear that a great deal has changed in recent months. The Court of Appeal decision to declare the Airports National Policy Statement (NPS) unlawful on carbon grounds was closely followed by the dramatic drop-off in demand as a result of the unfolding covid-19 pandemic. In light of these developments, it is right that the regulatory focus should return to a two runway Heathrow.

There was evidence in the expansion process of a gradual shift in thinking on the treatment of surface access and we would be keen to ensure that continues. In particular, there was increasing acceptance that the surface access requirements of an expanded Heathrow entailed securing not only sufficient connectivity and capacity but also environmental objectives.

There is national policy recognition that maintaining the status quo is not an option and the Government's Decarbonising Transport paper starts to sketch out the challenges to be addressed. It makes accelerating modal shift to public and active transport a key strategic priority and one which aligns with the Mayor's Transport Strategy target of 80% of trips by sustainable modes by 2041. Moreover, the Decarbonising Transport paper is also clear that aviation will need to play its part in achieving the Government's 2050 net zero target, to be elaborated in a consultation on net zero aviation later this year. Compared to other aviation related emissions, airport surface access is an area in which the aviation sector can reduce its carbon footprint through existing technologies.

This requires a number of measures to encourage positive behaviour change coupled with investment to support trips by rail, bus/coach, cycling and walking.

Such an approach need not place additional burden on airport users through higher airport charges. As TfL has submitted in its previous responses, we support the user pays principles so long as it is applied holistically across airport surface access modes. So, for example, rather the burden of new rail infrastructure falling exclusively on rail users, it should lie with transport users more generally. To do otherwise places a perverse price disincentive on use of sustainable modes. A regulatory framework which enabled revenues from car use – through charges applied for parking and terminal forecourt access, as well as the proposed airport area road access charge – to fund sustainable transport infrastructure would also serve to discourage unsustainable trips.

On a separate matter, we would also wish to express surprise about a specific issue detailed in CAP 1940 Appendix C, namely the initial CAA view that the appeal by HAL of the NPS decision be treated as an essential expansion cost and so recovered from airport users. As already mentioned, the Government is to consult on net zero aviation later this year. By doing so, it has set out how it intends to reconcile aviation policy with the carbon obligations highlighted by the Court of Appeal. HAL is entitled to decide that its commercial interests are better served by diverging from the Government's approach. But it is not clear why passengers and freight users should be required to pay for this choice. To allow HAL to pass on these legal costs risks undermining the public acceptability and credibility of the regulatory framework.

Thank you for the opportunity to respond to this latest consultation on the economic regulation of Heathrow. TfL remains ready to work with the CAA and other stakeholders to ensure a regulatory framework that aligns with the economic and environmental priorities of London, including through the development of the airport's sustainable surface access proposition.

Yours faithfully

A handwritten signature in black ink that reads "Simon Nielsen". The signature is written in a cursive, flowing style.

Simon Nielsen
Head of Strategic Analysis