

CAA decision: Proposed change to trigger verification process for Gatwick Airport and Heathrow Airport

Introduction

In early July 2011 the CAA initiated a consultation on a change to the trigger verification process for Gatwick and Heathrow airports¹.

The current process for testing whether a trigger has been met involves two stages, as set out in paragraph 13.28 of the CAA's March 2008 price control decision².

- i. the airport will send certification of completed works to the CAA for confirmation of successful performance against the triggered project milestone(s); and
- ii. the CAA will then consult the airline community (by means of a letter to the AOC) and investigate if any concerns are raised.

In respect of several recent triggers at Gatwick and Heathrow, the CAA has received a joint letter signed by the airport and the relevant airline committee (the AOC at Heathrow and the Airport Consultative Committee at Gatwick), confirming the completion of a trigger by the due date, accompanied by a certificate for the completed works. Because the letter already includes agreement from the airline community (the AOC/ACC), the CAA believes it is unnecessary to follow step (ii) of the current trigger verification process. Therefore, for future trigger verification, when the CAA receives a joint airport / airline community letter stating the trigger has been met, the CAA proposed to dispense with stage (ii) and simply confirm the trigger has been met.

The CAA stated that unless the proposal raises significant issues, it would expect to approve the change to become effective from 1 September 2011.

Views of respondents

The CAA received seven written responses from BA, BAA, GAL, Heathrow AOC, London (Heathrow) Airline Consultative Committee (LACC), Ryanair and Virgin Atlantic³.

¹ The consultation letter is published on the CAA website at:

<http://www.caa.co.uk/docs/5/TriggerVerificationConsult.pdf>

² Economic Regulation of Heathrow and Gatwick Airports 2008-2013, CAA Decision – 11 March 2008

³ These responses are published on the CAA website at:

<http://www.caa.co.uk/default.aspx?catid=5&pagetype=90&pageid=12447>

All respondents apart from Ryanair supported the change to the trigger verification process. While supporting the CAA proposal, the Heathrow AOC, LACC, Virgin and BA made it clear that the current two-stage process should be retained where there is not a joint agreed letter. BA also stated that the joint letter should state whether no significant objections were made or state which airlines objected. In the latter case BA stated that the CAA should continue to undertake some form of consultation.

Ryanair suggested that the CAA needed to consult all airlines as the AOC⁴ (at Gatwick) does not include all airlines. It pointed to the CAA's findings in its decision of June 2011 regarding transparency of information provided by GAL in support of this suggestion.⁵

Virgin and Ryanair also provided general comments on the principles of triggers, in particular suggesting that:

- The test of success should be made clearer with Ryanair suggesting it should be based on demonstrable benefit.
- Virgin stated that further discussions are required on what happens with triggers between regulatory periods to ensure projects continue to be delivered on time.
- Triggers should be reformed so that the airport does not benefit financially from forecast investment up until the assumed completion date of the project. Ryanair further stated that airports receive a financial benefit as they receive a return on the forecast regulatory asset base irrespective of whether the investment takes place or the project continues to be required.

The CAA welcomes general feedback on the principles and operation of triggers, and this will be considered fully in the context of its Q6 review. The purpose of this consultation is, however, more narrowly defined and concerns a discrete issue about verification procedures during Q5.

CAA analysis and options

Ryanair's response raises the question of how the CAA should solicit the views of the airline community at an airport⁶. The March 2008 decision stated for triggers that it would be the views of the AOC that CAA would take into account. In process terms it is easier to have airline views channelled through a single organisation rather than potentially 100 or so airlines. Ryanair, however, suggest that the problem with this approach is that the AOC might not reflect the views of all members, in particular as not all airlines are members of the AOC/ACC⁷, although Ryanair is a member of the Gatwick ACC (and does not operate from Heathrow).

The CAA has considered a number of options for dealing with trigger verification.

⁴ Trigger verification at Gatwick is now handled by the ACC.

⁵ <http://www.caa.co.uk/default.aspx?catid=5&pagetype=90&pageid=586>

⁶ This question arises in relation to many aspects of airline consultation and not just triggers.

⁷ At Gatwick 12 airlines out of around 90 operating at the airport are members of the ACC. These 12 airlines represent 85 per cent of the passenger volume. At Heathrow all airlines are members of the AOC.

One approach would be to leave the current system as it is. This will ensure that all parties are consulted but would mean potential duplication during the process as CAA would be consulting with the same airlines as the AOC/ACC, increasing time scales and still requiring significant CAA involvement.

Alternatively, the CAA could opt to amend the process so that the airport has to show reasonable evidence of consulting with airlines and taking their views into account. The airport could then provide evidence of this consultation when informing CAA that a trigger has been met. This would remove the CAA from the process somewhat but might circumvent the AOC/ACC which was purposively set up to allow the airport to consult quickly with airlines.

A further alternative would be to amend the process so that the airport agrees a joint letter with the AOC/ACC, with no second stage consultation from the CAA (as originally proposed in the consultation). This approach would have advantages as it would reduce timescales and regulatory burdens.

Decision

The CAA's Q5 decision in 2008 set out the process for verification of triggers. This stated that the CAA would solicit the views of airlines through the AOC. In practice where there has been a joint agreement between the airport and AOC/ACC, the CAA has not received any responses to its second stage consultation (which has been circulated to airlines as well as the AOC/ACC). Furthermore a number of airlines have told the CAA that they have limited resources to deal with all the consultations issued by the regulator. The CAA wishes to minimise the burden on industry given that we are entering an intensive period of the Q6 airports' review and in accordance with better regulation principles and proportionate regulation. The CAA has therefore decided that, where there is a joint letter from the airport and the AOC/ACC confirm that no airlines have objected, it would not then go through stage two of the process. The CAA encourages all airlines that are interested in triggers to participate fully in the AOC/ACC, which have an open membership policy. Equally, the airport should ensure that airlines with a significant interest in triggers such as Ryanair are invited to participate in the AOC/ACC verification process.

The CAA believes that Ryanair's concerns can be addressed by requiring the AOC/ACC to note any dissenting views in the response to the trigger. The AOC/ACC should represent the balanced views of many airlines at the airport. The AOC/ACC will consider airline objections before deciding whether to agree to a trigger. Therefore if the AOC/ACC objects to a trigger, reflecting the balanced views of airlines, the CAA will investigate the objection before deciding whether to agree to the trigger. If however the AOC/ACC agrees to a trigger despite an airline(s) objection, then the CAA would expect the AOC/ACC to detail how it has considered these objections. In this case, the CAA reserves the right to investigate, but expects to do so only in exceptional circumstances.

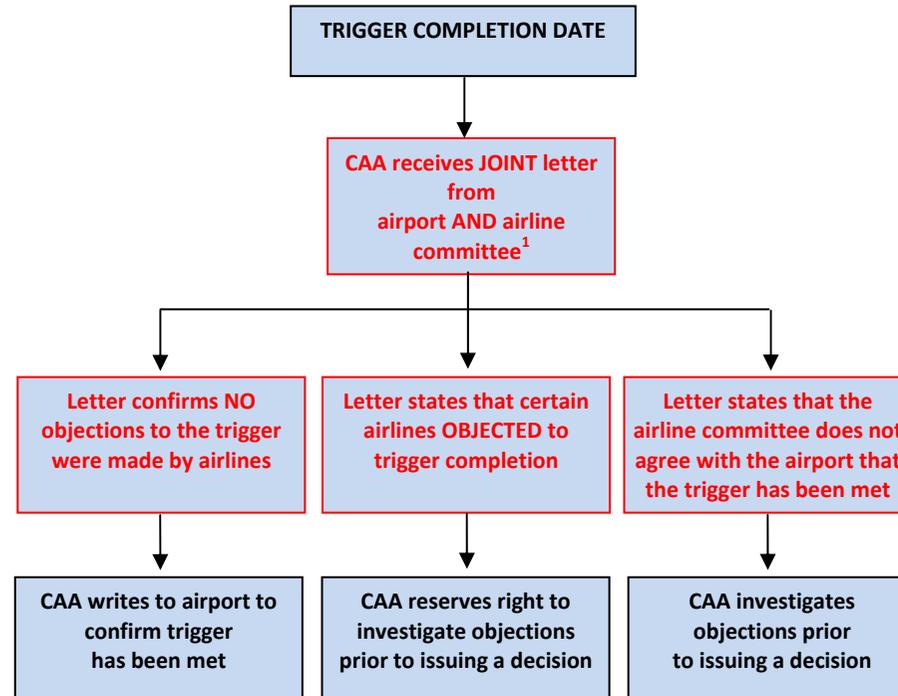
In summary the new process will be as follows:

- i. The airport and the AOC at Heathrow or ACC at Gatwick send a joint letter certifying the completed works to the CAA and confirming successful performance against the triggered project milestone(s). This letter should state,
 - o how the views of airlines have been sought, and
either that:
 - o no airlines objected;
 - o certain named airlines objected, and a brief summary of these objections and how they have been addressed; or
 - o the AOC/ACC as a whole does not agree with the airport that the trigger has been met, setting out the reasons for the disagreement.
- ii. Where the CAA receives a joint letter from the airport and AOC/ACC agreeing to the trigger and confirming that no objections exist, the CAA will not consult further before agreeing the trigger.
- iii. Where the CAA receives a joint letter from the airport and AOC/ACC agreeing to the trigger but stating that certain airlines objected, the CAA may investigate these objections before deciding whether to agree to the trigger.
- iv. Where the AOC/ACC does not agree with the airport that the trigger has been met then the CAA will investigate any objections before deciding whether to agree to the trigger.

The CAA expects the letter stating that the trigger has been met to be a joint one from the airport and the AOC/ACC. Where this is not provided, the CAA will ask the airport to submit a joint letter before agreeing the trigger unless there are compelling reasons not to.

Figure 1 sets out the new trigger verification process. This process will be effective from 8 September 2011.

Figure 1: New trigger verification process for Heathrow and Gatwick airports



(1) Gatwick Airport Limited: Alan Peever, ACC Chairman; Simon Elliot, JSG Representative;
Heathrow Airport Limited: Jim Hunter, AOC Chairman;

Appendix: List of respondents

Respondent	Date
BA	12 August 2011
BAA	29 July 2011
GAL	25 July 2011
Heathrow AOC	3 August 2011
London (Heathrow) Airline Consultative Committee	3 August 2011
Ryanair	15 July 2011
Virgin Atlantic	4 August 2011