RYANAIR’S RESPONSE TO THE CAA’S CONSULTATION DOCUMENT ON NATS (EN ROUTE) PLC PRICE CONTROL REVIEW FOR CONTROL PERIOD 3, 2011-2013

Ryanair welcomes the opportunity to comment on the Consultation on the Control Period 3 (CP3) Price Control for NATS En Route plc (known as NERL).

We wish to make it clear that Ryanair is deeply concerned about the unacceptable service levels and the high user charges imposed on us by the inefficient monopoly that is NATS and as a result of the CAA’s failure to effectively regulate it.

- NATS is one of the most expensive providers of air traffic control services in Europe, with a unit rate that is currently the 5th highest in the Eurocontrol area.
- Delays caused by NATS staff shortages for the first 6 months of 2008 were 119% higher than the same period in 2007.
- Delays in NATS controlled airspace due to “Capacity” problems increased by 24% in the first 6 months of 2008 over the same period in 2007.
- Traffic in NATS controlled airspace for the first 6 months of 2008 was just 1.6% higher than the same period in 2007.

The CAA must also be cogniscent of the fact that airlines are currently operating in one of the worst economic crises of recent times. The CAA must take a much more robust approach to the regulation of the NATS monopoly to ensure that it does not exploit its position to the disadvantage of users. This is no time for ‘light touch’ regulation.

Furthermore, Ryanair is very concerned that the regulatory gaming engaged in over a long period of time by the BAA Airports, and which the CAA has failed to prevent, is not repeated by NATS. We would draw the CAA’s attention to the findings of the UK Competition Commission in its Provisional Findings Report on its BAA Airports Market Investigation, in which the Commission acknowledged that RAB based regulation provides perverse incentives for the regulated body to over-estimate both capital and operating expenditure. The Commission noted in its report that RAB-based regulation “incentivizes BAA to play the regulatory game – invest in order to achieve an allowed return – rather than providing what users necessarily want, in terms of quantity, quality, location and timing of investment.” (paragraph 7.21).

(1) NATS Customer Consultation

Ryanair is in favour of customer consultation with NATS in relation to CP3 and our position on the matter is set out in NATS’ Sally-Anne Burwell’s letter to our David O’Brien, Director of Flight and Ground Operations, of 23 September 2008 (see Appendix 1 attached). The CAA must ensure however that NATS does not repeat the same consultation abuses as the BAA whose behaviour was roundly criticised by the Competition Commission in its Provisional Findings Report on its BAA Airports Market Investigation.
(2) Functional Airspace Blocks (FABs)

Ryanair supports the concept of the Single European Sky and the establishment of FABs but only on the basis that different service suppliers will be able to compete on a regular basis to provide Air Traffic Control (ATC) services to these FABs (see Ryanair’s correspondence with the IAA and NATS - Appendix 2 attached).

FABs must:
- Be open to competition
- Harmonise Air Traffic Controller (ATCO) training and licensing across the FAB
- Reduce user charges by 20% (50% by 2020 in line with SES II targets)
- Reduce ATC delays by 50%

(3) SESAR / Eurocontrol

Ryanair is supportive of the SESAR JU on the basis that it has the potential to deliver reduced costs and increased efficiencies from Air Navigation Service Providers (ANSPs) across the Eurocontrol area. New and improved technology will not on its own generate these savings/efficiencies. The cost base of Eurocontrol area ANSPs must be cleaned up so as to:
- Eliminate double charging
  - Exclude revenues lost by ANSPs due to strikes and equipment failure from calculation of under recovery
- Prevent waste and excess
  - Exclude non-SESAR compliant OPEX and CAPEX
  - Exclude final salary pension costs greater than 7.5%
  - Exclude travel costs
- Reduce staff shortages
  - Exclude equivalent % staff costs for absence above 2.5%
- Prevent State Aid
  - Exclude National carrier(s) bad debts from ANSPs calculation of under recovery
- Promote Competition
  - Accept real FABS – open competition, common licence
  - Exclude bogus FABS

(see attached presentation to Eurocontrol Study Group for Route Charges - Appendix 4)

(4) CP3 Opportunities

The CAA should recognise from the outset that as NATS is a plc, its Board will focus on maximising shareholder value as opposed to providing the most efficient and cost effective Air Traffic Control (ATC) service possible. The CAA is bound by statutory duty (Section 2 of the Transport Act 2000) to “further the interests of operators and owners of aircraft operators” and “promote efficiency and economy on the part of licence holders”. Accordingly the CAA must take the opportunity that Price Control for CP3
presents to put in place a series of measures which ensure that NATS provides a safe, efficient and value for money (low cost) Air Traffic Service in UK airspace for all users.

It is noted that for CP2, the CAA underestimated traffic volumes (5%) and revenues (3.6%) and this has allowed NATS to generate significant excessive returns (£20.5 Million in 2007/2008). At the same time, the average delay per flight in UK airspace has continued to increase (source CAA).

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<th>2006</th>
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<th>2008 (Jan-Aug)</th>
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<td>Avg NERL attributable delay per flight (secs)</td>
<td>22.4</td>
<td>22.7</td>
<td>23</td>
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<tr>
<td>Avg delay per delayed flight (mins)</td>
<td>16.64</td>
<td>17.27</td>
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Source: CAA

CP2 contains a delay term which penalises or rewards NATS according to their performance against a target or par value. The CAA very generously allowed a par value of 45 seconds of delay per flight for CP2. For each 4 seconds the average NERL attributable delay per flight is below this value, NATS receives a bonus payment of £1 Million. NATS has confirmed that it has profited from this extraordinarily generous regulatory regime to the tune of “5 to 6 Million pounds per annum over the past couple of years”. At the same time, its airline customers have paid some of the highest charges in Europe and have been exposed to costly and unnecessary delays resulting from NATS staff shortages and other service failures. The CAA must introduce a delay term in CP3 which has a target or par value that incentivises NATS to reduce ATC delays. 10 seconds would be an appropriate target.

NATS is a monopoly provider of ATC services for airspace that is strategically important to the aviation community, controlling as it does the access to much of Europe from the North Atlantic & Irish airspace. The CAA must ensure that CP3 prevents NATS from abusing this unique, monopolistic position to generate excessive returns. When setting CP3 price control, the CAA must be cognisant of the reality that NATS’ customers are not in a position to pass on all cost increases to their clients.

(5) Customers Endure Delays due NATS Staff Shortages while NATS Continues to Profit

In the first 6 months of 2008, the amount of delay caused by NATS’ staff shortages increased by 119% over the same period in 2007 despite traffic increasing by just 1.6%. During the same period, the total minutes of delay for “Capacity” delays increased by 24%. (see attached Appendix 3)

Ryanair has highlighted NATS Air Traffic Controller (ATCO) staff shortages for the past 6 years. NATS has made repeated claims that it will remedy the problem by:

- “Recruiting experienced ATCOs from elsewhere in Europe”
- “Optimising the skills mix of the current pool of staff”
- “Changing the way that ATCOs are rostered”
- “Using additional attendance agreements (AAVAs)”
• “Improving” NATS “ability to identify and mitigate days when the resource plan shows that” they “lack the necessary resilience”

Despite these assurances, users are still subjected to NATS “staff shortages” and our customers continue to be forced to suffer the misery and cost of resulting delays. In an attempt to understand the reasons for continuing staffing delays, on 10 September 2008, Ryanair requested that NATS provide us with a table of ATCO holiday and absence days for each of the previous 24 months. As NATS 2nd largest customer, it seems reasonable that this data would be supplied to Ryanair. To date, we have not received this information, which should be available as a matter of course, given NATS position as a regulated monopolistic supplier of ATC services for the UK. We expect to receive this by the end of January 2009 but have been forced to accept the unreasonable condition that we may not publicly comment on this information. This contradicts NATS claim that they consult openly with their customers.

NATS is bound by statutory duty (Section 8 of the Transport Act 2000) to “take all reasonable steps to secure that the demand for authorised air traffic services in respect of the licenced area is met”. Clearly, it is failing to do so but the CAA has not demonstrated any inclination in CP2 to remedy this situation. The CAA must ensure that CP3 contains appropriate measures to enforce NATS’ compliance with its statutory duties.

(6) Costs & Efficiencies

In 2008, the NATS unit rate charged to users was the fifth highest in Europe (was 2nd in Jan 08 but position was improved by the flattering fluctuation of Sterling against the Euro) but Eurocontrol’s Performance Review Report (PRR) 2007 (latest available) ranks them 27th in terms of “Economic Gate to Gate cost effectiveness”. CP3 must ensure that NATS is incentivised to intensively manage its costs and improve efficiency by among other things, reducing ATCO absenteeism, eliminating restrictive practices (e.g. harmonisation of ATCO licensing arrangements) and revising staff rostering arrangements to ensure that sufficient ATCOs are on duty to deliver delay free ATC services at any given time.

The Eurocontrol ATM Cost Effectiveness (ACE) 2006 Benchmarking report (latest available) notes that employment cost per flight hour for NATS was €99 against a European average of €85. Total cost per flight hour was €454 for NATS and the European average was €395. The ratio of support cost to ATCO cost for NATS was 40:1 with the European average at 33:1. NATS as a Regulated Monopoly should be required to be the industry leader in efficiency and cost effectiveness and CP3 must contain terms which ensure that this is the case. NATS must close its final salary pension scheme (as shared with the CAA) for all new joiners. It is unreasonable to require its customers to fund it when they cannot afford to provide such a generous scheme for their own employees.

Further savings could be generated by reducing the level of administration staff employed by NATS. ACE 2006 records that administration personnel account for 18% of the workforce as against a European average of 14%. NATS is also subject to statutory duty to “take all reasonable steps to secure that the system is also efficient and coordinated”.
Once again, CP2 has failed to ensure compliance with this requirement. CP3 must contain measures to remedy this matter.

The CAA’s price control regime and regulation of NATS for CP3 should mimic the effects of competition on NATS’ business and how they conduct it. It should expose NATS to the rigours of the economic environment and force them to deal with the ebbs and flows of the marketplace in the same way that their customers must to survive.

**CAA Questions**

In response to the specific questions raised by the CAA in its Consultation Document on NATS (en route) plc Price Control Review for Control Period 3, 2011-2013:-

**Q.1** The CAA invites interested parties to comment on the potential usefulness of benchmark analysis to inform the CP3 price control review, and on the CAA’s proposed approach to developing analysis of the available European data on comparative ANSP charge performance.

Additional data collection might be useful provided it is acted upon by the CAA. We cannot however stress too much that the CAA must use CP3 price control to address the fact that NERL’s charges are too high compared with the European average and its service delivery is poor.

Benchmarking NATS against its peers would be of limited benefit as most European ANSPs are also inefficient and high cost operators. Comparison with best practice across a broad range of industries would be significantly more useful because as we have previously stated, NATS as a Regulated Monopoly should be required to be the industry leader in efficiency and cost effectiveness and CP3 must contain terms which ensure that this is the case.

**Q.2** The CAA invites views on which of the two approaches outlined above would enable the CAA better to fulfil its statutory duties.

While a successful direct consultation with NATS would be preferable (Ryanair’s position is set out in NATS’ Sally-Anne Burwell’s letter to our David O’Brien, Director of Flight and Ground Operations, of 23 September 2008 - see Appendix 1 attached), the BAA experience if repeated may require that the CAA leads the consultation. Ryanair, in common with many other NATS customers are also customers of the BAA airport monopoly which is also regulated by the CAA. Over the past four years, BAA has failed to consult with its users, hiding behind an unworkable “constructive engangement” (see Competition Commission’s Provisional Findings Report on its BAA Airports Market Investigation paragraphs 2.37 to 2.39) model. BAA failed to provide users with necessary information on time, primarily due to the “light touch” policy of the CAA and the CAA’s failure to insist that the BAA provide the information as requested. Notably, much progress was made at the latter stages for the Stansted Q5 review when the Competition Commission directly chaired consultation meetings. Regrettably, this was far too late in the process and a similar situation must be avoided in relation to CP3. (see UK Competition Commissions Provisional Findings Report on its BAA Airports Market Investigation paragraphs 2.37, 2.38, 2.39, 2.42(b))
Q.3 Under the customer consultation approach, the CAA invites views on:
- The suggested structure and governance of the customer consultation process;
- The proposed allocation of issues to NERL-airline consultation and to CAA scrutiny, respectively;
- The timing and balance of the review between customer consultation and the subsequent CAA consultation on regulatory proposals
- The nature of the CAA mandate; and
- Suggestions as to the procedures and protocols for consultation which might be incorporated in such a mandate.

See answer to Q2 above.

Q.4 Do respondents have any other suggestions on how the process for the CP3 review might best be structured to meet the CAA’s regulatory requirements, recognising the scope for and constraints on airline users participating in this process?

The CAA should consult closely with the any interested NATS Customers. It should take into account that members of the group of airlines that are shareholders in NATS may have a different agenda (i.e. maximising profits with a view to boosting the value of their shareholding) in relation to price control than other customers. CP3 should contain mechanisms to ensure NATS achieves the SES II targets and delivers sufficient capacity and a 50% reduction in ATC costs per flight.

The CAA must rigorously regulate the NERL monopoly to ensure that NATS fulfils its statutory duties to “take all reasonable steps to secure that the demand for authorised air traffic services in respect of the licenced area”.

Q5 Do respondents agree that Eurocontrol charges need to continue to be controlled by a revenue or price condition?

Yes. The establishment of Functional Airspace Blocks (FABs) which are open to competition for limited periods of operation should enable a lightening of the regulatory load. It should be noted that the current Eurocontrol pricing conditions simply reflect the mutual rubber stamping of their member states inflated cost bases and provide no service guarantees. In this regard, Q5 is misleading in asking whether Eurocontrol charges “continue to be controlled”. They are not controlled.

Q6 Do respondents agree with the CAA’s preliminary views on the scope of regulation of the London Approach?

Yes. Any increase in price to users resulting from a structural change would be completely unacceptable and we are therefore pleased that the CAA is “not inclined to bring the approach services for other airports in the London area served from the control centre at Swanwick within the ambit of price control”.

Q7 Do respondents agree that there should be a separate price control for Oceanic services based on a relatively simple and low-cost price review process?

It is not possible to answer this question as the CAA consultation document does not explain why there is a separate till for Oceanic services and whether inclusion of Oceanic
services in a single till alongside the other elements of NATS business would benefit the majority of customers.

Q8 Do respondents agree that there should continue to be no price cap for North Sea Helicopter services but the costs and revenues (excluding the East Shetland Basin) should continue to be taken into account in the charging till for setting the en route charge condition?

Yes as long as the costs of provision of the North Sea Helicopter service are fully covered by the revenues from its provision.

Q9 Do respondents agree that it is appropriate for NERL work as part of the SESAR Joint Undertaking to be conducted by the regulated business and recovered through the Eurocontrol charge?

No. This would effectively provide a blank cheque to NATS in relation to European developmental and project related work that NERL might get involved in. Research & Development work should not be capitalised and included in the RAB as this will reduce the incentive for NATS to control any related costs and permit NATS to charge higher unit rates to its airline customers. Additionally, customers could then be exposed to double charging, once for development costs and then again for using any systems arising out of such work as part of the Eurocontrol Charge. (see attached Ryanair’s presentation to the Eurocontrol Study Group for Route Charges, Slide 11 – Clean up the Cost Base Appendix 4)

Q10 What are respondents’ views on how risks of the SJU should be reflected in price control?

Any risks associated with SJU should be managed by NATS with the SJU and should not be reflected in price control. Customers should not be required to pay for inefficient development exercises on the part of either NATS or SJU.

Q11 Do respondents agree that the CAA’s approach described above represents a workable approach for the medium term, which is sufficiently flexible to accommodate the currently foreseeable change?

No. A FAB should be operated by a single service provider that charges the users directly. Where two separate ANSPs are maintained (as is the case with the Irish/UK FAB), no worthwhile economies will be generated by two individual sets of overheads. (see Ryanair’s correspondence with the IAA and NATS - Appendix 2 attached)

Q12 What are respondents’ views on the balance of incentives facing NERL and the potential risks to users in the development by NERL of new products?

The CAA must ensure that CP3 price control is used to incentivise good “behaviour” by NATS and should not be drawn into NATS’ attempts to confuse the issue by seeking to introduce price incentives for users. Charging regimes should be simple and transparent and should be tightly regulated. CP3 must contain measures which severely penalise NATS for poor performance as this is the only way that their behaviour in relation to cost and service delivery will be modified.

With regards to new products, R & D spend should be on SESAR compliant projects only and the CAA should be cogniscent of the fact that the SESAR JU will co-fund any R & D
expenditure. New systems that the users will be expected to pay for should be only those which provide a quantifiable benefit to those users. Any other systems should be paid for from NATS net profits.

On the matter of the Olympic Games in London in 2012, there should be no increase in charging to cover overtime required to cover the expected traffic spike. NATS should cover this cost from the increase in the number of chargeable units that this business will generate and should immediately commence development of a plan to deal with the expected extra traffic.

Q13 What are respondents’ views on the regulatory incentives and/or constraints which might be placed on NERL during CP3 in this respect?

In accordance with its statutory duty to “further the interests of operators and owners of aircraft operators” and “promote efficiency and economy on the part of licence holders”, the CAA must ensure that CP3 price control is used to incentivise good “behaviour” by NATS, and not as is the case with CP2, reward poor performance with overly generous bonus schemes and “light touch” ineffective regulation.

All incentive programmes must be easy to measure and drive safety, efficiency, service delivery and cost control on the part of NATS. Any set of metrics and controls for CP3 used to measure NATS performance should include:

What to measure:
- ATFM delays
- Frequency of application of MDIs
- Cancellations due to system failures
- Exclude traffic from outside of the Eurocontrol Area from calculation of delay statistics as it is not regulated
- Absenteeism

Metrics:
- Monthly targets
- % of flights delayed
- Average delay per delayed flight

Weighting:
- Higher for 1st wave
- Higher for Apr – Oct
- Higher for Staffing delays

Controls:
- Penalties for poor performance/service failures
- Penalties if rate of absenteeism, including long term absenteeism exceeds 2.5%
- Set a maximum delay – no user charge for flight where delay exceeds this
- Penalty for incorrect recording of delay reason(s)
- No revenue shortfall associated with flights cancelled due to equipment failure, ANSP industrial action and/or ANSP service failures should be included in the calculation of under recovery
• NATS to pay passenger compensation due under EU Regulation 261 resulting from delays or flight cancellations due to staff shortages or other service failures.

NATS attributable delays
• Staffing
• Capacity
• Technical
• ATC Routings
• NERL Industrial Action
• Airfield delays where NATS provides ATC service

With regards to delay attribution, an alternative option would be to set slightly lower targets with NATS accepting responsibility for all delays in UK airspace. This would remove the requirement to expend resources in determining whether or not a delay fell into one bracket or another and allow them to be focussed on more useful tasks such as the elimination of delays.

Q14 Do respondents have any other views on any scope issues raised in this chapter, or on questions of scope which have not been covered here?

The discussion about ‘scope’ and ‘incentive’ appears to be no more than a NERL tactic to seek ways in which to inflate the costs it is allowed to recover through higher charges to users, without providing any proper justification or any real evidence as to why additional costs are required. The CAA must ensure that the regulatory gaming engaged in by BAA, as referred to by the UK Competition Commission in its Provisional Findings Report on its BAA Airport Markets Investigation (paragraphs 2.39 & 2.40 of the main report) is not repeated by NATS.

Q15 The CAA invites views on its provisional assessment of the potential interaction between UK economic regulation of NERL and the proposed SES II performance regime.

See answer to Q16 below

Q16 The CAA invites views on its proposed approach to the scope and conduct of the CP3 review, which seeks to align as far as possible the outcome of the CP3 review with the requirements on the UK which are likely to stem from SES II.

In relation to Q15 & Q16, the CAA should concentrate on regulating NERL to improve its current performance for the benefit of users rather than trying to second-guess future EU requirements. CP3 should contain mechanisms to ensure NATS achieves the SES II targets and delivers sufficient capacity and a 50% reduction in ATC costs per flight

R & D spend should be on SESAR compliant projects only and the CAA should be cogniscent of the fact that the SESAR JU will co-fund any R & D expenditure. New systems that the users will be expected to pay for should be only those which provide a quantifiable benefit to those users. Any other systems should be paid for from NATS net profits. The CAA must rigorously regulate the NERL monopoly to ensure that NATS
fulfils its statutory duties to “take all reasonable steps to secure that the demand for authorised air traffic services in respect of the licenced area is met”.

Q17 The CAA would therefore welcome views on the relative weight that should be attached to the two objectives set out above.

Both are important, but the CAA must have overriding regard to the fulfillment of its statutory duties which include both a duty to users as well as a duty to the efficient financing of the licence holder’s business. The latter must not be allowed to override the former in importance and given that NATS is a monopoly provider the CAA must ensure that the efficient financing of the business should contribute to a better service for users rather than simply improving returns for the monopoly.

Q18 Do respondents agree that the two alternative approaches are as set out above; or are there any other approaches to the regulation of finance?

The CAA must concentrate primarily on regulating price, service and investment and in accordance with its statutory duty, the interests of users. A primary focus on the regulation of the financing of the business would risk taking insufficient regard to the impact on users. This is not to say, however, that the financing of the business is not an important consideration.

Q19 Do respondents agree that the CAA should pro-actively regulate NERL’s financial arrangements via licence conditions?

Yes.

Q20 The CAA invites views on what, if any, changes should be made to the existing licence regime.

The CAA must have regard to the potential impact on users if the service provided by the monopoly is put at risk and therefore, if the licence regime needs to be made more robust to protect users’ interests, the CAA must make appropriate changes to that licence regime.

Q21 Do respondents agree that CAPM should form the principal means of estimating the cost of capital?

In current conditions, we are not in a position to respond to this question. The SESAR project is designed to harmonise the technical and operational aspects of European air navigation service provision. Decisions on capital expenditure and equipment selection should take advantage of the intended benefits of SESAR and cannot therefore be taken in isolation.

Q22 Do respondents agree that the approach to the market equity risk premium, analysis of beta and the non-zero debt beta provide will be relevant considerations in the CP3 review?

See answer to Q21 above.
Q23 Do respondents agree with the CAA’s initial thoughts on the cost of capital as set out above? What other factors should the CAA take into consideration?

It is important that the CAA do not lose sight of their statutory duties to users of the service in dealing with these technical financial issues and the CAA must have regard in any decisions on the cost of capital to the impact on the price to the user. We have already pointed out that NATS is one of the most expensive providers of air traffic control services in Europe and that its level of service provision is poor. We would therefore expect that all of the CAA’s regulatory considerations in determining NATS cost of capital should ultimately be reflected in lower prices and a more efficient service to users.

Conclusion

NATS has a statutory duty to “take all reasonable steps to secure that the demand for authorised air traffic services in respect of the licenced area is met”. It is currently failing to do so.

NATS first promised to eliminate staffing delays and improve services in 2002 when they set about hoodwinking the CAA into relaxing their monopoly licence conditions but the same problems remain and millions of passengers must endure unnecessary ATC delays. The CAA must ensure that any promises made by NATS in respect of CP3 are kept.

The CAA must also ensure that NATS does not indulge in the kind of regulatory gaming that the BAA has managed to get away with under the current regulatory regime operated by the CAA. The UK Competition Commission has acknowledged the perverse incentives that exist under this form of regulation and the CAA must ensure these perverse incentives are not exploited by NATS to the detriment of users’ interests.

The CAA is bound by statutory duty to “further the interests of operators and owners of aircraft operators” and “promote efficiency and economy on the part of licence holders”. Accordingly the CAA must ensure that CP3 focusses on the areas of:

- **Cost** - NATS, despite flattering currency fluctuations, remains in the top 5 most expensive European ANSPs. CP3 should require that NATS cuts its unit rate for Eurocontrol traffic by 50% by 31/12/2015.

- **Service** - For the past 6 years, airline customers have had to endure delays due to NATS “staff shortages”. CP3 should require that NATS eliminates “Staffing” and “Capacity” delays in UK Airspace.

- **Compensation** - CP3 should ensure that NATS pays passenger compensation due under EU Regulation 261 resulting from delays, disruptions or flight cancellations due to NATS staff shortages or other service failures.
APPENDIX 1

Letter from NATS’ Sally-Anne Burwell to David O’ Brien, Director of Flight and Ground Operations, Ryanair of 23 September 2008

Dear David,

CP3 Customer Consultation

It was a pleasure to meet you and Jim on Thursday and thanks very much to you both for your time and feedback on our proposals for how the CP3 customer consultation process could be run. We are obviously delighted to know that you are in support of the principle of the approach and are willing to commit the necessary resource to the consultation next year. I think we all recognise the size of the challenge we are setting ourselves and hope that through our joint efforts, we will have a chance of success.

We are grateful for your input into this early stage of developing the logistics of the process and I have listed below our understanding of the key points you made. As discussed, we are sharing this work with a handful of UK airlines, including BA, Virgin, Monarch, FlyBe and BMI, as we work with the CAA to develop a structure that we think could work.

Key feedback items from yesterday -

- You objected to the term ‘Business Plan’, making the point that a Business Plan deals with ‘actuals’ whereas our figures are ‘regulatory’ (eg in the RAB). In that case, you believe it is a ‘Pricing Plan’.
- You believe that the scope of the customer consultation should be high-level initially, covering only the essential components of Traffic forecast; Opex (including planned efficiencies); Capex (which should only be SESAR-compliant); and NATS Targets with compensation proposals.
- You suggested an independent Chairman, appointed by the Competition Commission and funded by NATS.
- You made the point that each airline’s representative must be at the appropriate level to be able to speak with authority for their airline.
- We could consider using a stenographer to record proceedings, as an alternative to producing Minutes.
- You requested that ELFAA be included in the CCWG.

I know you will let me know if I have missed something - and please do get in touch if you or Jim have any other thoughts on the subject.

Kind regards,

Sally-Anne Burwell
Director, Customer Affairs
APPENDIX 2 (i)

Letter from David O’Brien, Director of Flight and Ground Operations, Ryanair to Eamonn Brennan, Chief Executive, Irish Aviation Authority and Paul Barron, Chief Executive, National Air Traffic Services (NATS) of 12 July 2005, copied to Mr Martin Cullen, TD, Minister for Transport (Ireland) and Rt. Hon. Alistair Darling, MP, Secretary of State for Transport (UK)

Dear Eamonn and Paul,

I refer to your letter of 30th June 2005 to Michael O’Leary.

Ryanair supports the concept of the single European sky and the establishment of Functional Airspace Blocks (FABs) but only on the basis that different service suppliers will be able to compete on a regular basis to service these FABs.

The IAA/ NATS Report places the "cart before the horse" in limiting its scope as to how two monopolies might form a cartel under the guise of pioneering the establishment of a FAB.

Far from being ground breaking, the report is notable for the fundamental barriers to competitiveness and efficiency which it ignores:

• The report assumes that NATS will continue to hold its UK monopoly license beyond 2012. What is the basis for this assumption?

• The report assumes that the IAA will continue as the monopoly Irish ATC provider following the complete separation of its regulatory and operational functions. What is the basis for this assumption?

• The report is silent as to when the split of the IAA regulatory and operation functions will occur. What is the estimated target date?

• The report does not address the issue of common AtoC licensing, which is an artificial barrier to competitiveness and efficiency. What are IAA/NATS plans to harmonize licensing between the UK and Ireland and between IAA/NATS and the rest of Europe?

• The report supports the maintenance of two separate air navigation service providers, complete with their individual overheads. What is the logic behind this gross inefficiency?

The annual cost savings claimed by the report comes to a meaningless 0.9% of the annual cost base presented by IAA/NATS at the last Eurocontrol Enlarged Committee meeting. Is this the limit of ambition or capabilities - a less than 1% reduction in costs?

It would appear that the scheme is a pre-emptive attempt to establish a cartel in order to protect the existing inefficient and high cost status quo. This report demonstrates no benefits to the airline customers and the scheme, if allowed to proceed, appears to close the door to future competition.
APPENDIX 2 (i) contd.

Ryanair propose the following initial steps:

- The ANSP element of the IAA should be established as an independent commercial entity.
- The IAA and CAA should develop harmonised licensing requirements, allowing for the free movement of ATEs.
- The UK and Irish Governments should agree on the dimensions of one or two FABs across the entire combined airspace.
- A competitive tender should then be opened for the operation of the functional air space blocks commencing 2012.

Please provide us with information as to how:

- You intend to harmonize licensing arrangements.
- How you propose to remove duplicate overheads.
- How the proposed FAB would be open to future competition.
- What is your forecast reduction in charges over the next 10 years if the scheme proceeds?
APPENDIX 2 (ii)

Letter from David O’Brien, Director of Flight and Ground Operations, Ryanair to Mr Philip Hughes, Director – Commercial & Strategy, Irish Aviation Authority of 07 November 2006

Dear Philip

Thank you for the joint IAA/NATS briefing on FAB developments on 27th October last.

Ryanair supports the concept of the single European sky and the establishment of functional air space blocks (FABs) but only on the basis that different service suppliers will be able to compete on a regular basis to service these FABs.

Regrettably, there appears to have been very little progress since the IAA and NATS wrote to our Chief Executive in June of last year. I refer you to my letter of 12th July 2005 to the IAA and NATS, a copy of this letter is attached and could serve equally as a follow up to our recent meeting, (seventeen months later).

- None of the questions in my letter of 12th July 2005 have been answered. Please provide us with answers to these questions.
- The annual cost savings remain at a meaningless 0.9% of your current annual cost base.
- None of Ryanair’s proposals have been addressed or commented upon.

The proposal, as presented to us, appears to be nothing other than a recreating of the charging structure by of a cartel of existing monopolies.

With this in mind, again we ask you to provide us with information as to:

- How you intend to harmonise licensing arrangements.
- How you propose to remove duplicate overheads.
- How the proposed FAB would be open to future competition.
- What meaningful reduction in charges can be achieved over the next ten years if the scheme proceeds.
- When you would anticipate the FAB operation would be opened to competitive tender.
APPENDIX 2 (iii)

Excerpt from letter from David O’ Brien, Director of Flight and Ground Operations, Ryanair to Paul Barron, Chief Executive, National Air Traffic Services (NATS) of 22 June 2007

Functional Airspace Block

The current NATS/IAA proposals demonstrate all that is wrong in EU airspace management and charges:

- The claimed cost savings represent a risible 0.9% - which is as likely to translate into cost increases, given the margin for error.

- NATS and the IAA continue to incur capex on different and incompatible hardware projects.

- NATS and IAA training methods are incompatible (according to NATS) preventing the integration of human resources and limiting flexibility.

- Union domination of both organizations prevents planning the necessary reduction in Control Centres and the type of difficult changes which have been forced on your customers (defined benefit pension schemes etc).

The current proposal puts the “cartel before the horse”. Two monopolies propose to carve up the airspace of their respective countries to their own ends.

On the other hand, the FAB project presents NATS and your potential partners with an opportunity to demonstrate your bona fides when it comes to the pursuit of efficiencies, lower charges and the delivery of high quality service levels. If you are confident that NATS cost structures and abilities are industry-leading, then the following challenge should be acceptable to you:

- Propose to both Governments that the entirety of UK and Irish airspace be combined.

- Propose that the operation of this combined airspace be put out to tender to all suppliers.

- Relinquish your monopoly licence for UK airspace and compete (with or without a partner) with other operators for this tender. Obviously, movement in this regard is urgent as further capital expenditure on equipment unique to NATS or the IAA would compromise any potential benefits to consumers.

Accepting this challenge would be a demonstration of confidence in the assurances you expect your customers to accept.
APPENDIX 2 (iv)

Letter from David O’ Brien, Director of Flight and Ground Operations, Ryanair to Eamonn Brennan, Chief Executive, Irish Aviation Authority and Paul Barron, Chief Executive, National Air Traffic Services (NATS) of 19 June 2008, copied to Mr Noel Dempsey, TD, Minister for Transport (Ireland) and Ms. Ruth Kelly, MP, Secretary of State for Transport (UK)

Dear Eamonn and Paul

The Irish Times, Saturday 14th June 2008, reports that “Ireland and UK agree deal to improve air traffic cost and safety”. Can you please advise what cost reductions this deal will deliver. Previously IAA/NATS targeted a meaningless reduction of 0.9% (less than 1%) of the cost base plus a reallocation of charges which may well result in increases for many of your largest customers. I wrote to you on 12 July 2005 and to Philip Hughes on 7th November 2006 (copies enclosed). Both the IAA and NATS failed to answer our legitimate questions and failed to address our proposals. Instead, we now read about a fait accompli between your respective monopolies in a newspaper.

Our proposals are as legitimate now as they were three years ago and are listed below, for the third time, for your reference and response:

**Proposals (from 12th July 2005)**
- The ANSP element of the IAA should be established as an independent commercial entity.
- The IAA and CAA should develop harmonised licence requirements, allowing for the free movement of ATCOs.
- The UK and Irish Governments should agree on the dimensions of one or two FABs across the entire combined air space.
- A competitive tender should then be opened for operation of the Functional Airspace Blocks commencing 2012.

**Questions (from 12th July 2005)**
Please provide us with information as to how;
(a) you intend to harmonise licence arrangements,
(b) you propose to remove duplicate overheads,
(c) the proposed FAB will be open to future competition, and
(d) what is your forecast reduction in charges to users over the next ten years if this scheme proceeds.

Year after year, millions of Ryanair passengers suffer long and unnecessary flight delays as a result of staff shortages and other service failures by both the IAA and NATS, already one of the most expensive, inefficient providers in Europe. In recent months, NATS’ continuing staff shortages and IAA equipment failures have again blighted air travel from Ireland and the UK with frequent, unjustified delays.

You cannot expect us to accept a legally questionable merger of two under-performing monopolies into a single high cost monopoly without a commitment to significant cost savings and service improvements for users.

Please now provide answers to the questions first put to you in July 2005.
APPENDIX 2 (v)

Letter from David O’ Brien, Director of Flight and Ground Operations, Ryanair to Mr Philip Hughes, Director – Commercial & Strategy, Irish Aviation Authority of 05 August 2008

Dear Philip

I refer to your letter of 30th June 2008 in which you wrongly claim that the IAA and NATS properly consulted with users in advance of the “FAB” fait accompli announced through the Irish Times on 14th June 2008.

Your claim is disproved by the fact that two weeks after your announcement you purport to answer questions put to you three years ago on 21 March 2005, 6th April 2005 and 7th November 2006 (also letter to Eamonn Brennan on 12th July 2005)

Even now, more than three years after you first floated the notion of this cartel, your purported answers fail to address our questions, referring them either to the EU or dissembling on the removal of duplicate overheads and the absence of a plan to reduce charges.

Such “information” as provided since you first floated the idea of this prospective cartel, assumed a joint charging structure, a risible cost saving of 0.9% and, as yet unidentified, “winners and losers”. It now appears that the proposed “FAB” does not even match the vague, and equally unacceptable, plans you initially floated.

Ryanair broadly supports the SESAR scheme, which is intended to eliminate the type of restrictive practices, incompatible technologies, uncompetitive practices and excessive pricing which afflict European aviation, but which the IAA and NATS perpetuate.

As we first indicated in 21st March 2005, Ryanair will support the successful implementation of an FAB across Irish/UK airspace. We will oppose, however, the efforts of incompetent monopolies who continue to inflict appalling levels of delay on Irish and UK passengers to create a larger and even less efficient monopoly.
### NATS Capacity & Staffing Delays 2007 v 2008

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Source: CFMU CIR & NATS Condition 11 Reports
RYANAIR
The World’s Favourite Airline!

EUROCONTROL
STUDY GROUP FOR ROUTE
CHARGES 08 OCTOBER 2008

Ryanair – The World’s Favourite Airline

- 30 bases
- 151 airports
- 26 countries
- 746 routes
- 1,100 daily departures
- 166 Boeing 737-800s
- Youngest fleet (av 2y)
- 58M pax this year
Europe’s No. 1 for Customer Service

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Ryanair’s Traffic Growth

[Graph showing traffic growth from 2001 to 2006]
World’s Largest International Scheduled Airlines

“World’s favourite airline”

Massive European Potential

Eurocontrol Study Group for Route Charges 08 Oct 2008

**Note:** European Airline - Assumes 10% growth per annum in the sample market.
UNHAPPY EUROCONTROL CUSTOMER

- RYANAIR £285 MILLION TO EUROCONTROL IN 2008
- NOT GETTING VALUE FOR MONEY
  - ATC STRIKES & DOUBLE CHARGING
  - ATC STAFF SHORTAGES
  - ATC STATE AID?
  - ATC POOR SERVICE
  - ATC WASTE

EURO STRIKE CHAMPIONSHIP

- FRANCE CHAMPIONS – ITALY RUNNERS UP
- STRIKES: FRANCE 9 – ITALY 8*
- THREATS: FRANCE 11 – ITALY 26*
- THREATS ALMOST AS DISRUPTIVE AS STRIKES
- MONOPOLY POWER
- DOUBLE CHARGING
- NO COMPENSATION

* Since Jan '07
CASE STUDY – ITALY - 09 MAY 2008

- MILAN ACC - 4 HOURS
- 20 RYANAIR FLIGHTS CANCELLED
- 10 RYANAIR FLIGHTS DELAYED
- 4797 RYANAIR PASSENGERS DISRUPTED

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STAFF SHORTAGES

- STRIKES
- ABSENCE
- ROSTERS
- RESTRICTIVE PRACTICES
- ANCILLARY ACTIVITIES
- NO COMPETITION
CLEAN UP THE COST BASE

ELIMINATE DOUBLE CHARGING
- EXCLUDE STRIKE & EQUIPMENT FAILURE UNDER RECOVERY

PREVENT WASTE & EXCESS
- EXCLUDE NON-SESAR COMPLIANT OPEX & CAPEX
- EXCLUDE FINAL SALARY PENSION COSTS > 7.5%
- EXCLUDE TRAVEL COSTS

REDUCE STAFF SHORTAGES
- EXCLUDE EQUIV. % STAFF COSTS FOR ABSENCE > 2.5%
- EXCLUDE ANSP PASSENGER COMPENSATION (??) FROM UNDER RECOVERY

PREVENT STATE AID
- EXCLUDE NATIONAL CARRIER(S) BAD DEBTS FROM ANSP UNDER RECOVERY

PROMOTE COMPETITION
- ACCEPT REAL FABS - OPEN COMPETITION, COMMON LICENCE
- EXCLUDE BOGUS FABS

THANK YOU