bmi response to CP3 Customer Consultation

bmi welcomes the opportunity to respond to the CAA on the CP3 control period.

Q1.
ANSP benchmarking
European ANSPs are incredibly inefficient due in part to the luxury afforded them by the full cost recovery mechanism. In recent years this inefficiency has been masked as slight price increases have been accompanied by increasing traffic (with no accompanying efficiencies).

Now that traffic is decreasing, we are unfortunately seeing the flipside of this, with prices rising even more sharply to prevent under-recoveries. European ANSPs no longer have rising traffic to shield an increase in costs, and the inefficiency is being laid bare.

Benchmarking against such operators would yield little value for comparison with NERL.

Q2, Q3 & Q4.
bmi support for customer consultation process
bmi support the customer consultation option for the CP3 price review as direct engagement between NERL and its customers must be promoted in coming to agreement over CP3.

We have the following caveats to this:

- **Right to appeal assumptions**
  Airlines must be given the right to appeal the assumptions early on in the review process if they appear to be materially wrong. For example material changes in traffic forecasts should be taken into account, so that the price setting is still appropriate at the time of publishing.

- **Timely & concise consultation documents**
  A better consultation would emerge if documentation produced by NERL & the airlines is concise, transparent & produced on a timely basis.

  Unnecessarily verbose documents led to ineffective consultations due time being wasted in sifting through pages of irrelevant material. In this case, less is certainly more. As time is a valuable resource, please can this be borne in mind when issuing documents during the consultation (starting with the business plan).

- **Proper consultation**
  Consultation should be a forum whereby what is proposed in NERL’s business plan must be up for true discussion, and should be expected to be put under some scrutiny for it to be accepted, or not as the case may be. (paragraph 5.42)
Whatever part of the business plan isn’t justified, could reasonably be expected, subject to a majority of airlines being in agreement, to be removed from the plan. The justification should entail provision of rationales, financial numbers etc to prove its worth in the inclusion of the business plan.

NERL must come into the consultation with this in mind.

Of course, only if NERL believes it is absolutely imperative to keep certain investments in the plan in spite of airlines’ objections, should it then treat these as issues to be parked for an interjection by the regulator.

- **CAA to step in if stalemate occurs**
  Whereby there is fundamental disagreement between the parties in the customer consultation, it may be better if the CAA can step in to mediate and resolve the impasse so the process can continue, as opposed to parking the issue or resorting to a regulator led process straight away.

- **Information requested to be provided within a reasonable timeframe**
  For the airlines to contribute effectively to the consultation, could information requested by the airlines, for understanding & clarification, be provided by NATS to back up their business plan.

- **Toughened-up regulator**
  bmi would recommend that the CAA adopts a tough line with the spending plans of NERL when it reviews the outcome of the NERL-airlines consultation. Given that the effects of what is happening in the wider economy currently will last for many years, it is imperative that NERL’s business plan & accompanying price profile is commercially viable for the airlines.

Q5. **Revenue or Price Condition**
  The current system protects NERL by allowing full recovery of costs, whilst the commercial responsibility is passed on to the airlines. This is not only unfair, but also undesirable as NERL inefficiencies masked by the pricing system end up being passed on to the end consumer – the paying passenger.

  The sting in the tail for the airlines is that as trading conditions worsen, passenger demand falls so airlines react to cut costs, NATS pass on an increased unit rate (due to same fixed cost being recovered over fewer flights).

  We advocate a price condition, or a half way house, so as to remove this disadvantageous pricing mechanism. The pain being inflicted by this can be seen this year by comparing the initial rates submitted to Eurocontrol by the
ANSPs with the actual 2009 final rates, of which there is some considerable difference (due primarily to the traffic forecasts being revised downwards in the autumn).

Q6.
See response to Q12 on London Approach charges.

Q7.
Oceanic Services
bmi agrees there should be a separate price control review for Oceanic charges as long as it can be conducted within reasonable cost.

Q8.
North Sea Helicopter Services
If the numbers are immaterial as paragraph 6.38 suggest, then there is no upside from following this up. If they are material, then it could be worth pursuing. The level to which the rest of the airline community is subsidising these services cannot be seen from the document.

Q9 & Q10.
Is NERL SJU work suitable to be recovered through the Eurocontrol charge?
The inclusion of SJU costs in the eurocontrol charge is justified, to a point, given that the benefits will flow to users.

The main concern though is the control of SJU costs. We recommend that to ensure NERL has an incentive to restrict cost within the SJU, the en-route charge should be not pick up any cost overruns.

The very fact that these costs are very difficult to predict does ring alarm bells, particularly as the other ANSPs, that NERL will be working with, by their nature are not renowned for their commercial awareness.

Simply to allow ballooning costs that NERL states (maybe rightly) as driven by other ANSPs within the SJU would not be acceptable costs to be recovered through the eurocontrol charge. This would provide an incentive for NERL to be sat within the SJU group forcing cost consideration onto the agenda.

Any resultant increase in opex would be preferable to a bottom less pit of uncontrollable cost overruns stored up in the capex for future cost increases.

Q11.
FABs
bmi supports the development of the FABs for the purposes of removing resource duplication and streamlining the delivery of en-route nav with the associated cost benefits of both.

Consequently we support the requirement for regulatory flexibility in CP3 to develop the UK/Irish FAB.
Q12, 13 & 14.
London Approach
bmi agrees with the CAA's preliminary findings that London Approach should remain within the remit of regulation for CP3 to ensure regulatory scrutiny keeps a lid on these costs.

bmi would support the transfer of the London Approach costs into the en-route charges for the simple reason this would ensure the much sought after level playing field within Europe, as other European Member States have done (e.g. LVNL in the Netherlands recently) with the caveat that the costs, as the CAA states, are published to aid transparency. Cost relatedness & visibility can both be achieved with London Approach being in the en-route charge, with the level playing field with the rest of Europe achieved simultaneously.

In terms of creating a separate charge for London TMA, this is moving away from the level playing field. No other country has this differential area pricing yet there are equally complex areas in Germany, Switzerland & Belgium. Hence bmi would not support this.

Olympic Games
bmi concurs with the CAA in that any extra traffic will bring both benefits & costs. Assuming that the current recession will have finished by then, traffic should be increasing by then from a base that NERL should have operated at in the past.

The extra service units should be accounted for in the traffic projections.

Qs 15-23
No comment.