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Dear Mr Carr,

NATS' response to CAP1261: Review of advice on SES Market Conditions for Terminal Air Navigation Services (TANS) in the UK

NATS agrees with and welcomes the CAA's assessment that the market conditions test under EU Regulations for UK TANS is met. NATS supports the CAA's approach of focusing on better performance and efficiency driving positive outcomes for customers and passengers.

NATS has always felt that the market was, and remains, contestable. The CAA's draft conclusions, and the evidence provided by a range of stakeholders, confirm this and further indicate the extent and significance of changes to TANS in the UK. We are pleased that the wider community now appreciates the existence of market conditions.

Turning to the consultation document, we would like to highlight the following points:

1. In its introduction (paragraphs 1.4-1.7), the CAA rightly distinguishes a review under Regulation 391/2013 from its concurrent competition law powers under UK statute, and emphasises that the present review does not prejudice those powers. Conversely, however, participants are entitled to expect that the current review will not pre-judge issues which properly fall within the realm of the CAA's competition law powers or not by-pass the evidentiary, due process, and other safeguards built-in to those powers. There appears to be an element of prejudgement contained within paragraphs 5.65-5.67 relating to contract duration and the recommendation of compulsory tendering in paragraph 7.1. To avoid this, we recommend that these references should not appear in the final advice.
2. NATS also invites the CAA to review the language that it uses in referring to the NSL/NERL interface (paragraph 5.70) to avoid inadvertently reinforcing any perception of favour towards NSL when the CAA has found no evidence supporting this.
3. Finally, as to the CAA's suggestion in paragraph 5.90, NATS is already obliged to provide detailed disclosure of salary information as part of Data Room requirements for tendering actions associated with Tower contracts. NATS has also provided commitments to its customers to make available its ATCO staff at commercial rates to support operations, if required following transition, to a new service provider. Further, from a practicality point of view, there is no one price for an ATCO.

Instead, prices vary considerably depending on a number of variables. These include factors such as the level of ATCO experience, tower complexity, tower location, rostering arrangements and changing terms and conditions over time. Therefore, the outcome with regards to individual staff is highly unpredictable, even for NATS, right up until the decision to transfer or not is required to be made. As a result, NATS would struggle to provide anything useful beyond the current information provided as part of a Data Room and the commitments already made to customers. Even if the CAA's suggestion was practicable, NATS questions the appropriateness of disclosing a price list for ATCO secondments to the very companies it will be competing with in tendering to airports.

With regards to the on-going transition work at Birmingham and Gatwick Airports, NATS remains committed to safe and professional transitions and will continue to work constructively with both airports through these periods.

Please do not hesitate to contact me if you have any queries regarding our response.

Kind regards



Louise Balmforth

Airspace Regulation Manager