

# Gatwick Airport Limited response to CAP1973

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## 1. Introduction

On 22 October the CAA published its consultation “CAP1973 Economic regulation of Gatwick Airport Limited: consultation on new commitments”. GAL welcomes this opportunity to provide comments on CAP1973.

In January 2020 GAL published our finalised updated and extended Commitments. These Commitments provide users with certainty over the prices, investment and service Gatwick will deliver over the period from 1 April 2021 to 31 March 2025. These updated and extended Commitments are underpinned by a programme of passenger research and developed in consultation with our airline customers and passenger advisory group.

The Commitments which applied from 2014 to 2021 represented one of the most modern and proportionate forms of airport regulation, with its outcomes and achievements highlighted by several commentators<sup>1</sup>. The updated and extended Commitments builds on the earlier Commitments and delivers several important improvements and further benefits:

- It modernises the important Core Service Standards regime and introduces new metrics in a number of areas, such as flight information systems and service for passengers with reduced mobility. It also strengthens the passenger service focused measures for seating, cleanliness, flight information display screens, and wayfinding by calculating them on a rolling quarterly basis rather than a rolling year.
- A new capital consultation processes have been developed in cooperation with the airline community.
- It offers price certainty to customers until 31 March 2025 while also simplifying the design of the price Commitment. GAL will furthermore not adjust its price commitment in response to any additional Capital Expenditure GAL may incur in this period in preparation for obtaining a Development Consent Order (DCO) for the routine use of the Northern Runway. GAL furthermore extended this benefit to start from 1 January 2020.

GAL considers that its Commitments represent an appropriate and stable base for GAL to recovery and we welcome the CAA policy set out in CAP1973.

Nevertheless, since we published our Commitments in January 2020 both GAL and many of our airline customers have been catastrophically affected by the public health response to COVID-19, which has left Gatwick in very different circumstances than anticipated. We have not sought to change the Commitments we offered prior to COVID-19 despite the impact of reduced passenger numbers. Rather, we consider that the stability provided by Commitments will assist our and our customers’ recovery efforts. However, it is important to recognise that it is likely that market fundamentals have changed for a significant period of time and we, therefore, offer the observations below.

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<sup>1</sup> CMA evaluation of breakup of BAA (2016): <https://www.gov.uk/cma-cases/baa-airports-evaluation-of-remedies>  
Steer report Evaluating ACD (2017): <https://op.europa.eu/en/publication-detail/-/publication/8e6db69a-e601-11e7-9749-01aa75ed71a1>

## 2. Market Context and impact of Covid-19

Covid-19 has had a profound impact on Gatwick and the market outlook for this Commitments period, with traffic in 2021/22 expected to be lower than we have seen in the recent decade. Most industry observers predict that it will take between four and five years for traffic levels to recover to 2019 levels. COVID-19 moreover has a direct impact on the regulatory framework for Gatwick.

GAL is regulated using a licence due to the CAA's determination on the market power test set out in "*Market power determination in relation to Gatwick Airport – statement of reasons*" (CAP1134). This finding of market power was based on a narrow market definition (limited to Gatwick only) which excluded Heathrow due to capacity constraints while identifying that the evidence also suggested that absent capacity constraints "airlines would switch from Gatwick to Heathrow even with the current price differences<sup>2</sup>."

COVID-19 has had a fundamental effect on the aviation market, and the impacts will be felt for years to come. Most projections expect traffic to return over 4-5 years, and while these are highly uncertain, it is highly likely that abundant spare capacity will be available in the London system. Heathrow alone is currently anticipating serving only 37m passengers in 2021<sup>3</sup>. This would have a significant effect on any competition assessment and GAL is unlikely to have substantive market power for the foreseeable future. Notwithstanding this GAL nevertheless considers that our Commitments provide assurance to users in a range of scenarios and continues to be appropriate whether GAL is regulated with a licence or not. GAL is not therefore requesting a market power determination at this stage.

We do however consider that in this environment it is particularly important that the CAA ensures that the economic regulation of Gatwick Airport continues to be proportionate and fit for purpose. It is also important that the cost of its regulation recovered from Gatwick, which despite the more proportionate form of regulation during the period increased substantially since 2014, is reviewed to ensure that they follow cost recovery principles more closely.

## 3. Comments on CAA proposed monitoring

GAL notes the CAA's proposed amendments to its monitoring of GAL Commitments. We offer the following observations.

*Provide commentary to the CAA on how GAL expects the net yield to develop in the upcoming period*

GAL agrees with the proposed arrangements.

*Monitoring of Departure lounge seating – particularly if it falls into the "amber" category*

GAL notes the proposed additional monitoring of departure lounge seating and we agree that the passenger research (conducted before COVID-19) did identify this as an important area for passengers. Nevertheless, we believe that impact of COVID-19 on the passenger perceptions of airport service is still very uncertain and may remain volatile for some

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<sup>2</sup> CAP1134 page 30

<sup>3</sup> See Heathrow airport Charges Decision for 2021

<https://www.heathrow.com/content/dam/heathrow/web/common/documents/company/doing-business-with-heathrow/flights-condition-of-use/conditions-of-use-documents/Heathrow-Airport-Limited-Conditions-of-Use-Airport-Charges-Decision-2021.pdf>

time. This is particularly true in the context of cleanliness and departure lounge seating (which is impacted by social distancing).

We know from experience that how passengers perceive and rate services is strongly affected by world events. For example, following the security concerns arising from terrorism in the 2000s (9/11 and the 2006 liquid bomb plot) passengers started rating thoroughness of security search as more important and friendliness of security staff as less important. We believe that following on from COVID-19 it is possible that the UK airport<sup>4</sup> tradition of banks of dense general seating in the departure lounge may be inappropriate and need to be revisited. We, therefore, believe that the CAA monitoring of departure lounge seating will need to be sensitive to these shifting passenger perceptions in the upcoming period. GAL has undertaken to conduct a further review of the service arrangements starting in 2023, by which time we hope that passenger perceptions will have stabilised.

## 4. Comments on remaining items of CSS

Two areas of the Core Service Standards are still subject to further discussions between GAL and users; a new approach to measuring airfield assets and a new metric for security. Progress in these areas have been slowed during the year principally due to the uncertainty of the COVID-19 situation. While no agreement has been reached with users on the details of these items yet, discussions are still ongoing and we are optimistic that it will be possible to report progress on both these items shortly.

### *Airfield assets*

We have worked to develop the idea raised by the ACC as part of this process which would allow the airfield asset measures to remove the concept of “core hours” and focusing the targets on occurrences when aircraft turns are affected by faults to assets. We will shortly be circulating draft “handbook” text to the airlines describing how the metrics would work.

### *Passenger Security*

It has been common ground throughout this process that passenger security at Gatwick generally performs well and delivers very good passenger outcomes, but that the way it is measured is antiquated given the new technologies available. The intention of reviewing the passenger security target is, therefore, not to seek to raise this standard, but rather to seek an alternative representation of current target while measuring a greater number of passengers.

GAL has undertaken to invest in new measurement technology to enable a greater proportion of passengers to be measured and have agreed to examine whether removing the reliance on 15 minute time segments is appropriate. While delayed somewhat due to COVID-19 GAL has presented its assessment of the technology options to the ACC and received feedback. The most likely options are each able to deliver substantive improvements compared to previous technology and can supports a range of different measurement methodologies.

GAL is working to ensure that a new measurement system is in place in time for the summer peak season 2021. However, if the COVID-19 situation again worsens then the timescales may need to be revisited. We will continue to actively engage with the airline community regarding the new security target and will also consult with GATCOM’s Passenger Advisory Group. In the next phase of the project GAL intend to present suggested targets to the ACC.

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<sup>4</sup> We note that this type of seating is now very rare in international airports