vueling

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Vueling response to the CAA Draft Decision on the regulatory treatment of early costs of capacity expansion at Heathrow (CAP3238)

Vueling welcomes the opportunity to respond to the Civil Aviation Authority's ("CAA") Draft Decision on the regulatory treatment of early costs associated with capacity expansion at Heathrow Airport ("the Draft Decision"). However, Vueling firmly opposes the proposal to permit Heathrow Airport Limited ("HAL") to recover £320 million of early expansion costs during 2025–26 prior to the granting of a Development Consent Order ("DCO").

Vueling supports the responses submitted by Aer Lingus, British Airways and Iberia, and by our parent company, International Airlines Group ("IAG"). This submission complements those responses by setting out Vueling's perspective as a low-fare airline serving short-haul, point-to point routes, for which airport charges are a critical determinant of route viability, frequency and affordability.

This response should be read alongside submissions made by other airlines, including British Airways and by our parent company, IAG, which Vueling broadly supports. This submission focuses on the implications of the Draft Decision for consumers, affordability, competition and the appropriate allocation of risk.

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Jordi Pla Pintre
Chief Network Planning and Strategy Officer

1. **Prefunding in principle is wrong – early expansion costs should remain at HAL's risk until DCO approval**

Vueling considers that the recovery of early expansion costs from consumers prior to the granting of a DCO is wrong in principle.

At this stage, the proposed expansion remains unapproved, uncertain in scope, and subject to significant planning, legal and political risk. Costs incurred in developing a project that may not proceed, or may proceed in a materially different form, are inherently speculative. Under established regulatory principles, such costs should remain at the promoter's commercial risk and should not be transferred to passengers through higher airport charges.

An at-risk delivery model, under which HAL bears development and planning risk until a DCO is secured, represents the appropriate regulatory approach. Such a model preserves incentives for HAL to progress expansion efficiently, while protecting consumers from being asked to underwrite speculative expenditure. Once development consent is granted, efficiently incurred costs can be reviewed and, if appropriate, confirmed for recovery within the regulatory framework.

The Draft Decision is also inconsistent with the CAA's treatment of other UK airports. Gatwick Airport Limited secured development consent for its £2.2 billion Northern Runway project in 2025 without the use of a comparable regulatory pre-funding mechanism. The CAA has not explained why Heathrow should be treated differently, or why Heathrow consumers should be required to underwrite speculative development risk where this has not been considered necessary elsewhere. In addition, the £320 million now proposed for recovery builds on over £500 million of expansion-related expenditure incurred by HAL prior to 2020 that remains funded by consumers through the RAB. The CAA has not established what enduring benefits were delivered by that earlier expenditure or how it has reduced the scope or cost of the current programme, yet consumers are again being asked to fund a further tranche of speculative costs without a clear account of what previous spending achieved.

The Draft Decision departs from this approach on the basis that HAL may otherwise slow or defer preparatory activity. Vueling does not consider this concern to be supported by evidence. HAL has already demonstrated a willingness to incur material expansion-related costs in advance of regulatory certainty. This suggests that early activity does not depend on guaranteed cost recovery from consumers.

Allowing pre-DCO cost recovery risks fundamentally weakening cost discipline at precisely the stage where scrutiny should be strongest. For Vueling's customers, who are particularly sensitive to increases in airport charges, this represents an unjustified and disproportionate transfer of risk.

2. **The 2025–26 decision must not set a precedent for future early expansion costs**

Vueling notes the CAA's statement that the Draft Decision does not establish a precedent for the regulatory treatment of early expansion costs beyond 2025–26. That commitment must be upheld unequivocally.

The 2025–26 decision relates largely to costs that have already been incurred or committed. Any future decisions covering expenditure from 2027 onwards would be genuinely prospective in nature and could involve significantly larger sums, including land acquisition, enabling works and early design commitments. These two contexts are materially different and must not be conflated.

There is a serious risk that allowing even limited early cost recovery now will create expectations and regulatory momentum that constrain the CAA's freedom of action in future. As consumer-funded expenditure accumulates, sunk-cost pressures increase, making it progressively more difficult for the regulator to challenge scope, cost escalation or delivery models. Early expansion costs required to secure the DCO could potentially amount to as much as £9billion over the next few years.

For Vueling, this risk is particularly concerning given the scale of potential future expenditure and the direct impact on short-haul charges. It is therefore essential that the CAA commits in its final decision to developing a robust, ex-ante governance framework for all early expansion costs from 2027 onwards, before any such expenditure is incurred.

3. The consumer benefits case is unproven and does not justify certain and immediate consumer harm

Vueling is not persuaded that the Draft Decision is supported by a sufficiently robust and up-to-date consumer benefits case.

The Draft Decision relies heavily on generalised assertions regarding the long-term benefits of expansion, including the potential reduction of alleged scarcity rents. These claims remain contested and subject to significant uncertainty. Vueling notes that no independent, contemporary cost-benefit analysis has been commissioned by the CAA to support the proposed transfer of early development risk to consumers.

By contrast, the consumer harm arising from early cost recovery is immediate, certain and unavoidable. Airport charges are passed directly through to airlines and, ultimately, to passengers. For Vueling's predominantly leisure-oriented customer base, even modest increases in charges can influence demand, route viability and consumer choice.

The Draft Decision's reliance on the existence of "plausible scenarios" in which consumers may benefit at some future point does not meet the threshold required under principles of better regulation. Where costs are certain and benefits are speculative, the burden of proof must lie with the promoter and the regulator to demonstrate that intervention is proportionate and justified. In Vueling's view, that burden has not been met.

4. The proposed regulatory safeguards for 2025–26 costs are inadequate to protect consumers

Vueling considers that the safeguards proposed by the CAA for the recovery of 2025–26 early expansion costs are insufficient.

Ex-post review provides limited protection once costs have been incurred. At that point, expenditure is sunk, information asymmetry favours HAL, and regulatory leverage is significantly reduced. The Draft Decision permits substantial consumer funding without clearly defined outputs, milestones or success criteria, and without a robust clawback mechanism should the project fail to secure consent.

Vueling is also concerned that early consumer-funded design and preparatory work risks prejudging future decisions on delivery models and regulatory structure. Such work may entrench HAL's position and reduce optionality for alternative delivery approaches, undermining both competition and the integrity of the CAA's ongoing regulatory reviews.

If, notwithstanding Vueling's objections, the CAA proceeds with allowing early cost recovery, any final decision must include, at a minimum:

- binding ex-ante approval of future early expansion costs;
- clearly defined outputs and delivery milestones;
- genuinely independent assessment appointed and accountable to the CAA;
- implementing a binding commitment upon HAL to provide full and timely access to information to all prospective promoters;
- strict expenditure caps with a high evidential bar for any increase; and
- a clear and enforceable clawback mechanism if a DCO is not obtained.

5. Consultation process concerns

Vueling shares concerns expressed by other stakeholders regarding the consultation process underpinning the Draft Decision.

The compressed timeframe between the close of consultation and the publication of the minded-to position raises questions as to whether stakeholder responses were given sufficient consideration, particularly given the complexity and significance of the issues involved. In addition, the Draft Decision does not substantively engage with credible alternatives advanced by respondents, including the at-risk model for early costs.

Vueling is also concerned that further analysis may inform the final decision without being shared with stakeholders. Effective consultation requires that consultees are provided with sufficient information to make informed representations. Proceeding otherwise risks undermining confidence in the regulatory process.

If the CAA proceeds to a final decision without addressing these deficiencies, Vueling reserves all rights, including the right to seek judicial review of the final decision and to pursue any other available legal remedies Vueling would strongly prefer to avoid such outcomes but must protect the interests of its passengers and the integrity of the regulatory framework

Conclusions

For the reasons set out above, Vueling considers the Draft Decision to be flawed and inconsistent with the CAA's statutory duties to protect consumers and promote efficient outcomes.

Vueling urges the CAA to withdraw the Draft Decision and to reaffirm an at-risk approach to early expansion costs, under which HAL bears development risk until a DCO is secured and costs are only considered for recovery once consent is granted.

If the CAA nonetheless proceeds with permitting recovery of 2025–26 costs, it must clearly and unequivocally confirm that this decision sets no precedent for future expenditure, and commit now to establishing a robust, CAA-led ex-ante framework governing all early expansion costs from 2027 onwards.

Vueling remains willing to engage constructively with the CAA to develop a regulatory approach that supports efficient investment while protecting consumers from unnecessary and premature risk.