

International Air Transport Association (IATA) response to the UK CAA consultation October 2013 on regulatory treatment of London Approach charges in Reference Period 2 (2015-19) of the EC SES Performance Scheme

Summary

- The current LA charges system including the 60% subsidy by en route is clearly inconsistent with EC Regulation requirements as well as basic ICAO charges principles
- Our preference is Option 2 for a separate Terminal Charge with a revised allocation of costs that should be implemented for RP2 with the assistance of a revised common approach from the EC following their study during 2014 on the harmonization of cost-allocation between en route and TNC.

## 1. Introduction

We have previously raised our concerns at the significant lack of cost-reflectivity with the London Approach (LA) charges in the CAA's NATS Price Control Reviews in addition to consistently highlighting this issue during the annual NATS consultations on LA charges. In this regard NATS has frequently made the point that responsibility for the regulation of LA services rests with the CAA regulator while the designation of charging zones is a Department for Transport responsibility. We therefore welcome the opportunity to respond to this consultation and appreciate the transparency provided on the related costs and methodology by the CAA and NATS.

## 2. Background

2.1 When we supported the CAA proposals of September 2005 to bring the LA charges within the scope of the EUROCONTROL price control, we also gave our view that the service should be provided on a more cost-related basis and in line with the EC Regulations that do not permit cross-subsidy between en route and terminal navigation charges (TNC). We also reiterated this view when supporting the more recent proposal for inclusion of LTN and LCY airports within the LA charges.

2.2 It can be considered that the LA charges are currently inconsistent with the EC Regulations. The previous NATS License requirement that the charges "must not become any less cost-reflective", requiring annual consideration of "tweaking" the charge, are a reflection of the incompatibility of the LA charging formula with EC requirements as well as the lack of cost-reflectivity with some 60% of the costs on a fully allocated accounting cost basis within the en route cost base.

## 3. Situation

3.1 Against the background of an intensely competitive airline business one of our major requirements is for a level playing-field for costs and charges. While we recognize the difficulty in selecting a "one size fits all" solution in Europe the rules within the EC Implementing Regulation EU No.391/2013 in our view do not provide sufficient clarity. These are open to widely different interpretations, particularly with regard to Article 8 on the allocation of costs and Article 9 on transparency of costs and the charging mechanism.

3.2 So while it can be said there is a common approach this does not currently provide adequate or sufficient guidance. It can also be considered that under Article 5.3 on the establishment of charging zones the LA charges could actually fall under the en route services definition which would allow the CAA's Option 3. This would however be inconsistent with the requirement to differentiate between en route and TNC and the "user pays" and cost-related charges" principles that should be considered given that terminal navigation services are required and used by aircraft that are landing and taking-off.

3.3 It should also be considered that the current LA charges are inconsistent with the use of weight within both the EUROCONTROL en route and the EC TNC charging formulas, and that LA service is inconsistent with the other large UK airports where the approach service is included with the individual airport charges cost bases.

3.4 Against this situation we are therefore very encouraged to note the EC will be launching a study into the harmonization of cost allocation between en route and TNC in early 2014 with outputs of the study expected during the year. This study will also hopefully address the implications and inconsistency between the "20 km rule" applied for en route charges purposes and the 40 nm around airports when considering key performance indicators for terminal services. As this study is planned to be concluded within 2014 the outcomes can be applied to RP2 and help ensure a fairer and more level playing field for European TNC.

3.5 Article 5 of the Charging Regulation also allows States to establish a specific zone within a charging zone in complex terminal areas, which is suggested within the CAA Options 2 and 3. The London TMA is clearly one of the most complex terminal areas in Europe. While this could be regarded as a more cost-reflective solution, given the level playing-field requirement we would expect to see this option implemented at the other major complex TMAs in Europe.

3.6 The CAA review of the regulatory treatment of LA is also an opportunity to address the issues regarding cost reflectivity of the annual fee for the service paid by Biggin Hill and the free service provided at four smaller other London airports. As at Battersea Heliport, the argument that the large airport users should be willing to fund these services to protect airspace from infringements (similar to the requirement for airlines to fund the LARS service) is outdated, unfair and should be readdressed.

#### **4. CAA Options**

We fully agree the status-quo cannot be maintained, and against the background and situation outlined above our views on the proposed options are:

*Option 1 - Implement a separate Terminal Charge with the current allocation of costs.*

- The current allocation of costs with the consequent subsidy by en route is unacceptable.
- While the EC Regulations allow for establishment of a separate charging zone for complex TMAs our preference is to see this introduced providing it is also applied at the other major European TMAs.

*Option 2 - Implement a separate Terminal Charge with a revised allocation of costs.*

- We can support this option and believe it should be implemented for RP2 within a revised common approach endorsed by the EC following the study of harmonization of cost-allocation between en route and TNC.

*Option 3 - Consolidate LA costs in the EUROCONTROL en route charges.*

- This option could theoretically be considered on the basis that:
  - LA revenues (2012) are only some GBP 10m of the total NERL en route & LA revenues of GBP 607.
  - LA does basically fall within the en route services definition within Article 5.3
  - This would more easily facilitate the desired “gate-to-gate” efficiency benchmarking.
- It is however inconsistent with the requirement and definition of TNC services and with the basic principle that the users of the service should pay for the costs of provision (user pays and cost-relatedness).

Geneva 13 November 2013