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Sent to: [Economicregulation@caa.co.uk](mailto:Economicregulation@caa.co.uk)

**Re: A review of Gatwick Airport Limited's commitments framework**

Dear Stephen,

Virgin Atlantic (VS) welcomes the opportunity to respond to the CAA's consultation on a review of Gatwick Airport Limited's (GAL) commitment framework. VS continues to believe that GAL holds significant market power, and will do so for the foreseeable future. Despite this, we were continually open to considering the concepts being explored around alternative forms of regulation and in particular contracts and commitments at the airport.

Whilst the commitments regime was being devised VS provided detailed responses to the Commitments proposal put forward by GAL. This in particular covered that GAL's Commitments would need to be based on a lower price (although VS believe it should be lower than what was finally proposed by the CAA/GAL) and that a regulatory backstop, in the form of a licence would be required. Therefore, we welcomed that GAL's commitments were backed by obligations, which were included in a licence and therefore enforceable by the CAA.

Given that this consultation is only focused on the scope of the 'short and focused' review of the commitments framework, we shall limit our comments to this at this stage, and look forward to providing further views once the mid-term review is formally launched later this year.

We also support the views being presented by the ACC in its response.

**Economic regulation of GAL**

*GAL's licence and commitments*

As we have stated in previous responses we do not think that the final 'fair price' which the proposals were based around were in the best interest for the passenger and should have been lower.

With regards to the service standard commitments that is in place, the retention of this was welcomed by the airlines however, as we will go on to discuss, on-time performance (OTP) which is particularly important to the passenger is omitted from

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this, and given recent traffic growth at the airport this is having adverse ramifications for the passenger journey and on airport resilience.

With regards to GAL's automatic recovery of second runway costs being limited to £10 million per year, although we note that this is already included in GAL's licence, it is important to note that this should only be recoverable under close cost-benefit scrutiny.

### *Reasons for preferring GAL's commitments to a RAB-based price cap*

We would request a robust assessment as to whether the reasons for accepting GAL's commitments rather than implementing a RAB-based price cap has actually come to fruition. This includes an evaluation on:

- Whether the commitments have provided a better framework to diversify the service offering across the airport
- Whether innovation and diversity has truly started to emerge across the airport over the first two years
- Overview of the pricing profile for the remainder of the seven-year period, evaluated against the CAA's determined fair price for Gatwick.
- Impacts on operating expenditure against what was anticipated, and a full review of capital expenditure at the airport and the impact this has had on the passenger.

### *Monitoring the commitments*

VS supports the monitoring of GAL's shadow RAB, however, we would like greater transparency on how this is developed in order to be able to assess and compare the impact against the commitments.

## **Summary of recent developments**

### *Traffic Growth*

We note that over the first two years that the commitments have been in place that traffic growth at the airport has been substantially higher than the CAA traffic forecasts.

However, as noted in the next section this increased traffic throughput through the airport, combined with the late delivery of investment projects and service quality and OTP issues is all culminating in having a significant impact on resilience at the airport that must be addressed both in this review, and throughout the remainder of the commitments regime.

### *Airport Charges*

For clarity, we would welcome the CAA evaluating each of the aspects that culminated in the fair price calculation against the actuals for the past two years at Gatwick. Also, we would like to see a forecast blended price track out to the end of the seven-year period from GAL, to have greater transparency on the cost implications to our passengers.

### *Service Quality*

Our views on service quality are outlined in the following section and are discussed in conjunction with resilience issues at the airport.

## **Proposed scope of the mid-term review**

We note under point 3.5 that the CAA states that if GAL can develop good relationships with the airlines and the flexibilities within in the regime are operating in passengers' interests, then there could be scope for scaling back in the monitoring of the commitments over time. Given Gatwick's continued significant market power and dominance that it retains, we would be highly concerned with any scaling back of the current regime, and would not want to see monitoring reduced to any degree.

### *GAL's service quality and airport resilience*

We welcomed the retention of the service quality rebate system and would be happy to feed into the audit of regulation both at Gatwick and Heathrow wherever we are able to assist. As we have previously stated in past consultations this system is vital in holding GAL to account on certain levels of service and ensuring an appropriate level of service is reached for our passengers.

As an airline that operates in a highly competitive environment, OTP is of primary importance to us and our passengers. We note and support the ACC position that this may not be the appropriate place to provide a full assessment of the airport's resilience issues. However, we do have a concern that this is an area that is currently being overlooked and underinvested in by GAL, and is certainly a gap in the current service quality regime.

Particularly given the recent traffic growth at the airport and certain infrastructure constraints, it will be imperative that resilience is assessed robustly in the interest of the passenger. If GAL is acting out of the passengers interest on this issue it may well be the case that revisions to the licence which has been granted may be required and that the current service quality regime may need to be revised.

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#### *GAL's investment performance*

We welcome the CAA including investment performance as part of the scope for this review as we have some concerns over the delivery of investment projects at the airport, with a particular focus on timings and missed deadlines.

Departing from the previous approach of a RAB-based price cap with a set of triggers in place to a system whereby there is only a general commitment to invest £700 million over the seven-year term has brought with it some significant concerns.

We would welcome a full evaluation of this change in approach by the CAA and the implications it is having on passengers at the airport.

We would be happy to provide our specific views on this bilaterally with the CAA once the formal review is launched later this year.

#### *GAL's relationship with airlines and other stakeholders*

We welcome the CAA looking to assess the extent of the relationship between GAL and its stakeholders under this new regulatory approach.

#### *Implemented airport charges over the regulated period*

It is important for there to be greater transparency from GAL over what the price forecast for the full regulated period will consist of for our customers. We currently do not have sight of this at the moment and this is not appropriate for an entity that has considerable market power to be able to be non-transparent on such an important issue.

#### *Evaluation of bilateral contracts*

VS would welcome an assessment from the CAA on how bilateral contracts and the regime is working in practice, which we would be happy to feed into with our views on the matter.

Given this new approach to economic regulation at the airport, it is an important juncture to evaluate whether these are still in the best interest of the consumer. It would also be worthwhile evaluating whether there has been a tailored approach to service quality, capital expenditure and operational practices under bilateral contracts in comparison to what would have been viewed under the previous regulatory approach.

Kind regards,  
David Joseph  
Specialist, Regulatory Affairs

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