

CAA CONSULTATION ON PROPOSED MODIFICATIONS TO GATWICK AIRPORT LIMITED'S LICENCE

RESPONSE BY GATWICK AIRPORT LIMITED

1. Introduction

- 1.1 Gatwick Airport Limited (GAL) welcomes the CAA's final proposals which accept its extension of the contracts and commitments framework (the 'Commitments') as the basis for economic regulation to 31 March 2029.
- 1.2 As required under s22(c) of the Civil Aviation Act 2012, the CAA's consultation is focused on the proposed modifications to GAL's economic licence. In this response, GAL sets out its views on the proposed modifications and, for completeness, provides an update on the review of Core Service Standards (CSS) and its work to secure the Northern Runway Development Consent Order (DCO). Lastly, as requested by the CAA, GAL comments on the proposed future review of the Commitments framework.
- 1.3 The CAA has concluded that the Commitments are in the interests of consumers. GAL therefore looks forward to the CAA publishing the new economic licence as soon as practicable.

2. The proposed licence modifications

- 2.1 The CAA's proposed modifications to GAL's licence are an accurate translation of the terms of the Commitments extension to March 2029.
- 2.2 GAL supports the CAA's proposal to remove the appendix to the licence that set out the Conditions of Use in full and replace it with a shorter appendix setting out only the Commitments. This removes material that is not relevant to the Commitments or the licence and addresses the mismatch between the Conditions of Use and the licence that develops over time from GAL updating the Conditions of Use at least once a year to reflect feedback from stakeholder consultations.
- 2.3 GAL submits that the CAA should make two proposed modifications to the draft licence.
 - Paragraph 8: The text should be updated to reflect that the special assistance metric (now known by GAL as 'assisted travel') is also calculated at the airport level, i.e. as for runway and community app availability.
 - Paragraph 5 of Schedule 2: The paragraph states that GAL is required to notify the CAA and all operators at the airport at least two years prior to the end of the term of its intention regarding the continuation of the Commitments. For the reasons set out at paragraphs 5.7-5.10 below, GAL submits that the CAA should reduce this time period to 'at least one year'.



LONDON GATWICK

3. Core Service Standards

- 3.1 GAL welcomes the CAA's finding that its proposed new and updated CSS commitments are sufficiently in the interests of consumers. Moreover, the CAA recognises that GAL has been taking *'meaningful steps to improve the quality of service'* and highlights the *'helpful changes to its proposals since the August 2024 Consultation'*. The CAA found that *'GAL's latest position on these matters is a very positive development, which also emphasizes the flexibility and advantages of the broader commitments framework'*.
- 3.2 As the CAA notes, GAL has included the enhancements to CSS set out in Appendix C of the CAA's final proposals in its Conditions of Use for 2025/6. GAL is working proactively with the Airport Consultative Committee (ACC) to conclude the process and provides the following update and confirmations:
- GAL has agreed CSS metrics with the ACC with the exception of staff search in North Terminal, the availability of the community app and self-serve bag drop. GAL is continuing to work proactively and expeditiously to reach agreement on these metrics as follows:
 - North Terminal Staff Search – GAL will assess the impact of changes to staff parking arrangements on staff flows before adopting the new metric and expects this to be completed by early summer 2025.
 - Community app – GAL has reached agreement on the overall system availability and is concluding discussions with ACC on core hours for availability.
 - Self-serve bag drop availability – A review of the first three months of new operating protocols has been concluded. Software updates are due from the equipment supplier at the end of March 2025 to enhance availability reporting capabilities and ensure accuracy ahead of GAL's proposals for the new metric. Discussions are expected to conclude in Q2 2025.
 - In relation to the airfield, we welcome the CAA's recognition of the steps that GAL has taken to improve OTP and note its support for a broader basket of airfield performance measures. GAL is continuing to work proactively with the airport community.
 - GAL's proposal for a dual metric has been accepted by the ACC and incorporated into GAL's Conditions of Use for 2025/6. It combines the existing physical runway condition and a new metric on ATM flow restrictions which captures equipment and resources directly within GAL's control.
 - As the CAA is aware, GAL and the airline community are working to develop a more comprehensive set of KPIs during 2025 with a view to updating / adding new metrics to the CSS framework for Summer 2026.
 - GAL continues to innovate and partner to deliver operational enhancements. On 6 March 2025, GAL successfully rolled out 'Advanced Mixed Mode' technology which allows aircraft to be separated by time rather than distance, increasing the throughput of the runway and enhancing resilience. This is the first mixed mode time based separation in the industry.



LONDON GATWICK

- GAL has proposed weightings for the maximum potential rebates for each standard and recently received the ACC's response. In GAL's view, within the current framework, it is in the consumer interest to continue to balance the weighting of penalties across the full spectrum of CSS, including passenger satisfaction measures. GAL is committed to reaching agreement with the ACC regarding the weightings as soon as practicable.
- As requested by the CAA, GAL confirms that it will provide an update on the operation of the new CSS metric for special assistance, including on whether and how pre-notification levels are being met, within 12 months of the measure coming into effect.
- As soon as the remaining metrics and weightings are agreed with ACC, GAL will update its Conditions of Use accordingly. GAL will continue to provide the CAA with regular updates on progress.

4. Northern Runway DCO

Benefits of expansion

- 4.1 GAL welcomes the CAA's finding that there are significant consumer benefits from GAL's Commitments in relation to the development of the Northern Runway with a corresponding need for GAL to be able to finance such a development. The CAA highlights benefits including additional customer choice and flexibility in terms of flights, airlines and destinations, enhanced resilience, downward pressure on prices and the potential to reduce any incentives for GAL to exploit market power.
- 4.2 The Grant Thornton report found that the increase in capacity is likely to lead to lower airfares, and potentially very substantial benefits for passengers, in addition to increasing competition both between airports and airlines. It also found that a commercially-oriented approach may allow airport expansion projects to make smoother progress and highlighted the potential negative signals that could be created by a tighter price control about the future regulation of GAL at a time that is critical for capacity expansion.

Airline consultation

- 4.3 In relation to consultation on the Northern Runway Project, the Grant Thornton report briefly noted some concerns expressed by airlines over the degree of transparency and engagement. The source of this paragraph is unclear as Grant Thornton did not engage with airlines in preparing its report. GAL has engaged extensively with and formally consulted airlines over a period of several years including during the development of the plans and throughout the DCO process – both bilaterally and multilaterally. The extensive public hearings during the examination also provided a high degree of transparency with over 2,500 documents published by the Planning Inspectorate.
- 4.4 Over 20 airlines, both international and from the UK, operating long haul, short haul and domestic services have publicly supported GAL's DCO application through different Written Representations, Statements of Common Ground, letters of support and oral testimonies in Open Hearings. These carriers span the globe flying from North America, Europe, Middle East, and Asia – all regions projected to grow in the Northern Runway Project forecasts. Airline submissions highlighted benefits including growth opportunities from additional slots,



LONDON GATWICK

enhanced resilience, benefits for customers and wider economic and employment benefits. GAL notes that airlines will ultimately make decisions on their engagement and support for the DCO according to their market positions and future strategic priorities.

Update on DCO timing and next steps

- 4.5 On 27 February 2025, the Secretary of State for Transport (SoS) issued a 'minded to approve' letter for the Northern Runway DCO under the Planning Act 2008.
- 4.6 GAL welcomes that the SoS is minded to approve the DCO and has set out a clear pathway to full approval later in the year. In addition, the SoS was minded to agree with the Examining Authority which found a number of matters in GAL's favour:
- The Northern Runway Programme falls within the policy of making best use of existing runways and does not constitute the creation of a new runway.
 - The Northern Runway Programme would not significantly affect Heathrow's hub status.
 - There is a nationally recognised need for aviation development, particularly in the south of England and the current capacity at London airports falls far short of this need.
 - No airspace change is necessary and no airspace issues are relevant as these are subject to a separate regulatory regime.
- 4.7 The primary additional information that the SoS is seeking are in relation to the following areas:
- Aircraft noise, including air noise limits and the size of the air noise contour and the extent of receptor based noise mitigation.
 - Public transport mode share.
- 4.8 In addition, the SoS has raised some points in relation to National Landscapes (section 245 of the Countryside and Rights of Way Act 2000), sustainable design and BREEAM 'excellent' for energy and compliance with Regulation EU598 in relation to final noise operating provisions. GAL has until 24 April 2025 to respond to the SoS.
- 4.9 GAL's response will be published on the Planning Inspectorate's website and comments will then be invited from other interested parties on these matters only. The deadline for the final decision is now extended to 27 October 2025.
- 4.10 GAL is committed to securing the DCO and will continue to keep the CAA updated on progress.

5. Future review of the Commitments framework

- 5.1 The CAA proposes to undertake a review of the Commitments framework and is currently of the view that this should start in the second half of 2027 and seek to complete by mid-2028.
- 5.2 In setting out its rationale for a review, the CAA states in its final proposals that it is good practice to periodically review regulatory arrangements and that the focused reviews envisaged in 2021 did not take place.

The CAA should consider carefully if the proposed review is needed

- 5.3 GAL submits that the CAA should consider carefully what incremental benefit a review of the framework would deliver having only recently completed comprehensive assessment and consultation on the Commitments and given its obligation to undertake future consultation and review in relation to GAL's next regulatory proposal.
- The CAA's comprehensive review of the Commitments extension included an assessment of the benefits of the Commitments framework. On the basis of its own analysis and independent consultancy reports it concluded that the Commitments framework is proportionate and targeted and benefits consumers including through encouraging bilateral contracts and incentivising traffic growth, innovation, the quality and range of services, economy and efficiency and competition between airports.
 - The final proposals also highlight the CAA's finding – underpinned by the Grant Thornton report – that it is important that the regulatory framework continues to provide GAL with an incentive to pursue its plans for capacity expansion, is flexible to respond to changes in investment plans during the investment period and ensures consumers are protected.
 - Although the CAA did not undertake the focused reviews envisaged in 2021, GAL's extensive eight month stakeholder consultation (2022-23) and the CAA's detailed two year review and assessment (2023-25) have already examined the three proposed areas, i.e. net charges and the average levels of discounts (on which GAL also reports annually), service quality and investment.
- 5.4 If the CAA is still minded to undertake a review of the Commitments framework in addition to reviewing GAL's next regulatory proposal, it will need to reflect two key issues:
- The very significant increase in business rates that GAL anticipates from 2026.
 - The context of the Northern Runway Programme. In particular, GAL highlights two key conclusions from the Grant Thornton report:
 - There are risks to any tightening of the price control *'especially in terms of the potential signals that could be created about the future of regulation at Gatwick at a time that is critical for GAL expansion'*.
 - The importance of longer-term certainty regarding the regulatory framework, with the report stating that *'whilst the project may be commercially attractive at the proposed level of charges in the commitments framework, this is only the case for an investor taking a relatively long-term view (of decades rather than years)'*.

The timing of any review must be flexible

- 5.5 The CAA is right to acknowledge that it may need to revisit the timings of a review (for example, given uncertainty around expansion) and that it is important to ensure a review does not unduly interfere with the commercial process between GAL and airlines for the next regulatory period.

- 5.6 In considering necessity and timing, the CAA should therefore have regard to how a review would fit into the following detailed consultation and assessment process ahead of the next regulatory period:
- The current extension is only for four years which is shorter than regulatory periods for the CAA's other regulated entities and those in other sectors.
 - GAL, its airline partners and passenger representatives need sufficient time to evaluate how the Commitments extension is operating. They also need to review the outcome of the DCO decision expected in October 2025 and any subsequent appeals.
 - GAL will then shape its next regulatory proposal and consult with stakeholders (under the current text of the draft licence this would need to start by March 2026).
 - Given the commercially-led approach under the Commitments framework, GAL's consultation process is thorough so starts a year ahead of GAL submitting a new regulatory proposal.
 - The consultation will include price, service and investment and will therefore again incorporate the themes from the potential 2021 focused reviews. In this regard, GAL has a strong track record of reflecting stakeholder feedback. For example, in developing the current Commitments extension, GAL took the significant step of lowering the proposed price ceiling materially, substantially increasing the capital programme and enhancing CSS metrics.
 - The next regulatory proposal will also need to be shaped to reflect the longer-term regulatory certainty required to underpin the development of the Northern Runway Programme.
 - In the current wording of the draft licence, GAL will then need to notify operators at the airport at least two years prior to the end of the term (i.e. by 31 March 2027) of its intention regarding the continuation of the commitments, if any, on pricing, service standards, continuity of service, operational and financial resilience, investment consultation and financial information.
 - The CAA will then undertake its own consultation and assessment of the proposal between 2027 and 2029 – although, as set out below, GAL considers this period could be shortened to one year.

The CAA should reduce the time needed to complete its review of the next regulatory proposal

- 5.7 The CAA's consultation documents have consistently described the Commitments framework as being '*intended to be a proportionate and targeted approach to economic regulation, which encourages bilateral contracting and facilitates commercial rather than regulator-led decision making*'. The CAA's review process therefore examines the progress in GAL's commercial deals with airlines and undertakes a 'cross-check' of the regulatory proposal to determine if it is the consumer interest. The CAA's August 2024 consultation set out the nine areas for assessment.

5.8 GAL submits that this process could be completed in one year rather than two and highlights the following points:

- The requirement in GAL's Commitments to notify the CAA and operators of its intentions regarding the continuation of the Commitments at least two years prior to the end of the term originates from GAL's original Commitments made in December 2013. At that time, the Civil Aviation Act 2012 was in its infancy, GAL was emerging from RAB based regulation and the Commitments framework had not been tested. The seven year regulatory period also gave an additional three years for GAL to review how the Commitments were working, develop a new proposal and consult with airline partners and passenger representatives prior to submitting the proposal to the CAA two years ahead of expiry.
- In contrast, the Commitments regime is now well established and the CAA's reviews have consistently found it to be in the consumer interest. Moreover, GAL now has a strong track record of negotiating long-term commercial contracts with airlines and evolving its regulatory proposals materially in response to consultation feedback such that the proposal submitted to the CAA has already been tested with airlines and consumer representatives. In addition, the CAA's review process is also now well established. In contrast to 2013, the four year extension also means that GAL would need to shape a new proposal one rather than four years into the new regulatory period.
- A lengthy review process is detrimental to all parties.
 - It requires GAL to present forecasts and proposals three years ahead of the new regulatory period taking effect (i.e. a year of consultation and a two year CAA review). It also creates a hard deadline for negotiations to end in order for the proposal to be finalised when expiry is still two years away. As evidenced by the current process, airline commercial positions change over such a long consultation and review period (which is almost as long as the extension itself).
 - The uncertainty regarding the CAA's timing and decision is problematic for GAL and its airline partners. A protracted review also risks impeding the commercial process and creating a climate that works against airport and airline collaboration to deliver investment, innovation and growth. This concern has been highlighted to GAL by airline customers.

5.9 A faster review could be conducted without compromising the rigour of the process.

- The current review experienced pauses due primarily to staff changes and resource constraints at the CAA. A continuous flow could have enabled the CAA consultations and assessment to be completed in around a year.
- A faster review closer to the expiry of the Commitments would enable the CAA to evaluate more recent information. It would also reduce the likelihood of airline positions on the same proposal altering materially during the process – and in turn the need for the CAA to undertake additional assessment and commission further consultancy work following its initial findings.

- Publishing a target timetable for key milestones and conclusion of the review at the outset and adhering strictly to consultation timings would increase certainty and pace. (There may be helpful lessons to draw from the statutory timetables for CMA merger investigations and regulatory appeals.)

5.10 As set out above, GAL submits that paragraph 5 of Schedule 2 to the draft licence should be therefore amended to state that '*GAL shall notify the CAA and all Operators at the Airport at least 1 year prior to the end of the Term*'. GAL would welcome the opportunity to engage with the CAA in this regard.

6. Concluding remarks

- 6.1 GAL welcomes the CAA's final proposals which accept its extension to the Commitments as the basis of economic regulation to March 2029. The proposed modifications to GAL's licence are an accurate translation of the terms of the Commitments.
- 6.2 Engagement with the ACC to finalise the CSS update is progressing well and GAL is committed to obtaining final DCO approval following the 'minded to approve' decision by the SoS.
- 6.3 In relation to a future review of the framework, GAL requests that the CAA consider carefully the need for any review together with its scope and timing. GAL also urges the CAA update the licence to require GAL to submit its intentions regarding the continuation of the Commitments at least one year ahead of expiry rather than two. This would enable a more efficient CAA review and more effective partnering between the airport and airlines to support investment and growth.
- 6.4 GAL looks forward to the CAA publishing the new economic licence as soon as practicable following its consultation on the proposed modifications.

GAL

25 March 2025