



Tim Griffiths
Regulatory Policy Group
Civil Aviation Authority
CAA House, 45-59 Kingsway
London, WC2B 6TE
United Kingdom

Ref: Economic regulation at Gatwick from April 2014: Final Proposals - VAA Initial Views on Price Commitments

Dear Tim,

Given we are now midway through the consultation period in respect to the CAA's proposal for the Q6 settlement at Gatwick published on 3rd October, I thought it would be worthwhile taking this opportunity to submit VAA's initial views on the Price Commitments presented. We will additionally be providing a full response to CAA's proposals by the close of the consultation period.

The points raised in this initial view both support and supplement the comments presented by the ACC in its initial response to the proposals.

Virgin Atlantic Initial View

We have remained open to the concepts of alternative forms of regulation at Gatwick, but have continually stated the right checks and balances need to be in place along with a robust regulatory backstop, as such we have provided feedback and concerns to the CAA and GAL over the course of the year, however much of this has failed to be addressed in these proposals. Our overarching view is therefore that the Commitments have not been thoroughly thought through either by the CAA or GAL with a number of outstanding issues with the detail that have yet to be addressed.

We are therefore concerned that the latest proposals, fails to meet the CAA's primary duty and are not in the best interest of passengers at the airport. As expressed in our response to GAL's revised Commitments (email dated 3rd September 2013) we do not believe that the modifications GAL has made to the terms of the proposed Commitments remedy the risk of the airport exercising its significant market power to the detriment of the passenger.

Virgin Atlantic Airways Limited

The Office
Manor Royal
Crawley RH10 9NU
United Kingdom

T +44 (0)844 811 0000
F +44 (0)844 811 0747
www.virginatlantic.com

Registered Office Company Secretariat,
The Office, Manor Royal, Crawley RH10 9NU
United Kingdom
Registered in England 1600117
VAT Number GB425 2161 84

Despite this, engagement with GAL over recent months on these commitments has been limited, and we continue to have significant concerns with the commitments as is currently drafted. This is still a key concern with the CAA's final proposals.

Particular areas of concern include:

- The proposed price remains too high. Our view is that the CAA should have challenged GAL's Commitments price further, rather than simply adopting the proposals;
- The CAA was wrong to accept GAL's Commitments price on the basis of an unequal comparison with the CAA "fair price" and an exaggeration of the benefits of Commitments. (For example the CAA 7 year fair price of RPI+0.3% would include more guarantees on capex delivery and outputs and a much lower risk of price increases during the period. It therefore offers significantly better value than even the blended Commitments price of RPI+0.5%);
- Comparisons between the Commitments price and a RAB price are also unequal because the Commitments price excludes costs that are in a RAB price e.g. premium services. If adding these additional costs to the Commitments price, it is highly likely the Commitments capped price could be equal to or higher than under RAB pricing;
- The proposals are also unclear on the formal definition of premium services. GAL has still not presented to VAA or the wider airline community the definition of premium services, despite our requests on several occasions. It is highly important that robust definitions are developed to prevent the redefinition of what are currently core services;
- We also challenge the ability to change the mechanism. For an agreement to be reached by airlines representing 67% of passengers on published charges in our view is unworkable. It is necessary that consensus is reached with all airlines, not just a subset. Under the mechanism as it currently stands it would be possible for one type of airline (e.g. low cost carriers) to impose changes on all carriers at the airport;
- The proposals create significant risks for passengers over the costs of a potential second runway, which the CAA has recognised could be £9 billion. This has been left as an open ended item in the proposals, and any future figure could be in excess of this. Therefore there is no guarantee passengers will be receiving value for money, and resulting passenger charges could increase exponentially;
- It also remains unclear from the proposals the detail on other variations to the price cap to pass through including security costs and hold baggage screening. There is no onus on GAL to efficiently run both and therefore could have significant implications for the passenger charge;

- Although the Commitments will be supported with a licence, our ability to challenge GAL's actions on issues such as investment plans or behaviours is reduced under commitments with less onus on GAL to consult/be transparent with airlines; and
- The airlines still remain in the Commitments proposal "the insurer of last resort". In a standard commercial relationship, the supplier would have a contractual liability for direct costs incurred by the customer through supplier under performance or negligent actions.

We would also welcome further clarity as to what the repercussions will be if an airline does not sign up to Commitments i.e. what is the resulting price that will be applicable – Commitment published price or RAB "fair price".

As a regulator for the passengers' best interests at Gatwick there is a need for the CAA to address the significant concerns outlined above if Commitments are to prevail and be workable in practice. It is highly likely implementation of the Commitments as is currently drafted will cause significant detriment to the passenger along with allowing GAL to exercise its significant market power.

We would be happy to discuss any of the above in more detail.

Kind regards,

A handwritten signature in cursive script, appearing to read "J. Brady".

Jill Brady
Director of People and External Affairs