

**Sent on:** Thursday, January 9, 2025 9:20:20 AM

**To:** Economic Regulation <economicregulation@caa.co.uk>

**Subject:** [External] London Luton Airport Operations Ltd CAP3063 Response

Good Morning CAA & DfT,

London Luton Airport Operations Ltd (LLAOL) welcomes the opportunity to submit our views on the joint consultation document CAP 3063 – Economic Regulation of NERL. We remain committed to supporting and contributing to efforts to deliver the LTMA redesign.

Whilst our response to CAP3029 – Proposal on UKADS1 lays out our views in full, please see below a high-level overview of recommendations as you jointly work to deploy UKADS1.

### **Approach Taken**

LLAOL believes that the approach taken by the CAA and DfT so far has been pragmatic and largely consistent with the statutory duties in relation to safety, interests of customers, consumers, the economy. However, we remain concerned about the overall efficiency of delivering modernised airspace and the feasibility of the stated timescales.

We appreciate that there is clear identification of license modifications required, but more broadly, we would have preferred to see a holistic approach to numerous changes and consultations that are running in parallel, some of which currently contradict each other and are not aligned in timescales. Our concern is that the numerous separate consultations and CAP releases are becoming problematic for the aviation industry due to the complexity, unrealistic timescales and risks reducing confidence that the bodies involved are aligned when working on different objectives. For any consultation response or policy to become effective and efficiently support the AMS, they must be aligned to an overarching set of ambitions, objectives and timescales.

LLAOL's previous CAP3029 consultation response stated that we would support other aerodromes seeking airspace change services, delivered by UKADS1, which have no further effect on the delivery of the current ongoing FASI-S LTMA redesign. This includes no increased resource strain for UKADS1, CAA regulator review delays or any design conflicts within the current FASI-S design repository. While we agree with and welcome the benefits of the increased flexibility that this license change proposal provides, we have significant reservations that such a high degree of flexibility could fail to prevent UKADS1 being inundated with extra workload within the short term scope and even more so in the medium term before UKADS2.

This said, we agree that the approach meets the obligations set out in Section 2 -Transport Act 2000 (TA).

### **Financial Restrictions**

LLAOL believes that NERL should be enabled to carry out the UKADS1 functions and not have them included in the activities that contribute to the calculation of *de minis* caps in paragraphs 12(a)(vi) and 12(b) of Condition 5. It is important not to put any restriction of said cap on NERL, which could potentially deliver a sub-par service for its custom base, particularly if UKADS1 services were restricted because activities were counted in their *de minus* cap. We suggest this

would be in contradiction with the UK Government's ability to deliver its obligation of Section 2 - TA(2000).

### **Governance**

LLAOL's concerns for corporate governance were outlined in detail in the CAP3029 consultation. We still share this sentiment but assurances for the inclusions of Airspace Design Services within Condition 8 of the draft modification slightly alleviates these concerns. LLAOL stated it was important that no board member should be affiliated with an airline or airport; it is proportionate in Para 4 of this draft to state that any independent director shall not be or shall not have been employed as an employee or director by an airport operator or airline within the last 12 months OR an associate of any party or group of airports or airlines.

We are pleased to see that the condition proposal also mitigates conflict of interest via the CAA being notified of any appointment of a director, so that they can ensure that the appointee remains independent or does not have any historic affiliations that can lead to conflict of interest.

### **Advisory Board**

LLAOL's view of governance also applies to Part C – Arrangements for the Advisory Board. We welcome the formation of the advisory board and the proposed responsibilities, but our assessment of Para 13 is that NERL would struggle to identify individuals who have no conflict of interest in broader terms and:

1. Are independent from the interests of parties initiating permanent changes to UK airspace.
2. Are subject matter experts from airports, airlines and other key stakeholders.

There seems to have been focus on UKADS1 providing a general UKADS, rather than providing conditions for the advisory board who would deliver FASI-S.

Whilst Paras 11-13 are proportionate and represent the deliverables, they unfortunately largely match ACOG's intent. We refer back to our CAP3029 response and restate our belief that any strategic intent or powers of an advisory board must not deliver the same timescales as ACOG. The tactical and strategic intent / delivery should be set by UKADS1, and the advisory board should communicate these plans to stakeholders, as per the license change proposal.

### **Control of Airspace Design Charge**

LLAOL have no further comment on the airspace design charge proposal. We believe the approach to be proportionate, and assume the DfT and the CAA have engaged with the airline industry on this matter to gain comment.

We look forward to working with the CAA and DfT to enable UKADS1 deliver what it is intended to do.

Kind Regards,

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Simon Makin

Airspace Change Lead

London Luton Airport

[london-luton.co.uk](http://london-luton.co.uk)