



Consumers and Markets Group

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Outcome Based Regulation Mid-Term Review scope consultation

Dear stakeholder

This letter sets out our intended approach to the mid-term review of the Outcome Based Regulation framework set out for H7 in our Final Decision for the Heathrow price control in March 2023.

Background

The Final Decision confirmed that the existing service quality rebate and bonus (“SQRB”) framework for airport service quality would evolve into an Outcome Based Regulation (“OBR”) framework. The new framework includes a “continuous improvement” approach that would allow it to be updated during the H7 period. The mid-term review was confirmed in our Final Decision consistent with the pre-defined scope set out in our Final Proposals in Summer 2022.

The aim of the review is to address those issues that could not be resolved in time for the Final Proposals, and to understand how the new OBR framework is bedding in and whether there are any specific issues arising from the application of new measures and targets.¹

2024 mid-term review

In line with this approach, in addition to addressing:

- issues outstanding from the Final Decision; and
- the implementation of the framework and new measures and targets

the review will help inform our approach to H8. By May 2024 the framework will have been in operation for a year, and this will provide some insights as to how it is working in practice.

¹ CAP2524B Economic Regulation of Heathrow Airport: H7 Final Decision Section 1: Regulatory Framework, paragraph 3.47

We said in our Final Decision that the review should not undermine the structure of the five-yearly price control reviews and should not expose stakeholders to additional risk. The scope for the review set out below is consistent with these objectives.² We will adopt a proportionate approach, including in relation to where there is only limited new information available and ensure that any changes resulting from the review maintain consistency with the broader price control decision.

This review does not affect or restrict the ability of the CAA to modify HAL's licence with immediate effect where there is agreement between HAL and the AOC to do so pursuant to Condition D1.6 of HAL's licence.

Scope

The scope for the mid-term review is set out in full in Appendix A and is unchanged from that set out in our Final Decision. It covers:

- issues that could not be resolved in time for inclusion in the Final Proposals;
- specific issues arising from the application of new measures and targets;
- changes that are specifically required as a result of new investment projects that have been agreed between HAL and airlines;
- the appropriate level of granularity for targets such as security queues and asset availability measures;
- changes to security queue measures and targets necessary to reflect (in a neutral way) the impact of the security transformation programme or the installation of new queue measurement systems;
- possible changes to the way that asset availability targets are applied; and
- in a strictly limited number of cases, consideration of possible increases in targets.

Approach

Our broad timeline and approach to the mid-term review is:

1. Request for stakeholder views on any issues identified within the scope of the review (April-May 2024) - this letter.
2. CAA and stakeholder engagement on issues raised and proposed changes including further targets granularity analysis (Summer 2024).
3. CAA proposals for changes arising from mid-term review (Autumn 2024).
4. CAA final changes document (late 2024 tbc)

We expect to engage directly with HAL and airlines during this process, as well as considering the responses we receive to this letter and our Autumn consultation.

² CAP2524B Economic Regulation of Heathrow Airport: H7 Final Decision Section 1: Regulatory Framework, paragraph 3.27

Next Steps

We welcome comments and contributions from stakeholders in response to the issues relating to the scope of the OBR framework mid-term review, set out in Appendix A, and the issues/questions raised in Appendix B.

We will consider this feedback as we determine our further engagement on the review over the summer period. Please e-mail responses to economicregulation@caa.co.uk by **no later than 5pm on Friday 24th May 2024**.

We cannot commit to take into account representations received after this date. We expect to publish the responses we receive on our website as soon as practicable after the period for representations expire. Any material that is regarded as confidential should be clearly marked as such. Please note that we have powers and duties with respect to information under section 59 of the Civil Aviation Act 2012 and the Freedom of Information Act 2000.

This letter and appendices will also be published on the CAA website.

Yours sincerely,

David Milford

David Milford

Senior Policy Advisor

APPENDIX A

Scope of the OBR framework Mid-Term Review

In the H7 Final Decision document,³ we set out the following scope for the mid-term review of the OBR framework would cover. The scope for this review remains unchanged from the H7 Final Decision and is as set out below:

- issues that could not be resolved in time for inclusion in the Final Proposals: including the definition of a measure relating to Heathrow’s carbon footprint which we regard as a priority for the review. Other issues to be addressed include setting targets for the airport departures management and airport arrivals management measures (as well as ensuring that the definitions are fit for purpose) and also for “an airport that meets my needs”;
- any specific issues arising from the application of new measures and targets: this could include any definitions that are difficult to apply or measure in practice, or any targets that now appear to be unachievable for reasons outside HAL’s control. Conversely, however, if a target appears potentially too low, we would not generally expect to make any adjustment until the next price control review;
- any changes that are specifically required as a result of new investment projects that have been agreed between HAL and airlines;
- the most appropriate level of granularity for targets such as security queues and asset availability measures: including whether targets should be set on a monthly, daily or other basis, whether targets should be set for individual control posts or groups of control posts, and the possible harmonisation of security queue targets. If we were to propose any changes that would take effect during H7, our aim would be to ensure that these had a neutral impact on the net revenues that HAL might expect to earn from bonuses and/or pay out as rebates during the remainder of H7;
- any changes to security queue measures and targets necessary to reflect (in a neutral way) the impact of the security transformation programme or the installation of new queue measurement systems: this could also include any proposals to rebalance the rebates for different security queue times, especially if this is backed up by a strong evidence base and/or broad agreement between HAL and airlines;

³ CAP2524B Economic Regulation of Heathrow Airport: H7 Final Decision Section 1: Regulatory Framework, para 3.38

- possible changes to the way that asset availability targets are applied: if there is reasonable agreement between HAL and airlines on an alternative approach; and
- in a strictly limited number of cases, we will consider a possible increase in targets: as set out in our Final Proposals and Final Decision, the measures and the possible increases in targets are:
 - i. a possible increase in the wi-fi performance target to 4.10;
 - ii. a possible increase in the availability of check-in infrastructure target to 99 per cent; and
 - iii. a possible increase in the availability of pre-conditioned air target to 99 per cent.⁴

⁴ See paragraph 3.38 of the Final Decision.

APPENDIX B

Questions guidance for initial stakeholder responses

Based on the scope of the OBR framework mid-term review set out in Appendix A, we have identified the following questions, which are listed by scope area and refer to discussion of these areas in our Final Proposals and Final Decision documents where appropriate.

Questions by review scope area

Issues that could not be resolved in time for inclusion in the Final Proposals;

- 1) What do you consider would be an appropriate definition for a measure of Heathrow's carbon footprint? Please provide supporting evidence for this definition.
- 2) In light of recent performance levels, what do you consider would be an appropriate target for:
 - a) the airport departures management measure;
 - b) the airport arrivals management measure; and
 - c) the "an airport that meets my needs" measure.

Do you consider there are any issues related to the targets you propose that should be taken into account by the review?

Specific issues arising from the application of new measures and targets;

- 3) Do you consider there are any specific issues arising from the application of new measures and targets that are important to address in this mid-term review? If so, please provide details of the issue and why it should be addressed as part of this mid-term review.

Changes required as a result of new investment projects that have been agreed between HAL and airlines;

- 4) Do you consider there are any specific changes required for new investment projects that should be addressed by this mid-term review? If so, please provide details and indicate whether these have been agreed between HAL and airlines.

The level of granularity for targets such as security queues and asset availability measures;

- 5) How do you consider we should assess the likely consumer benefits of moving to a more granular measurement of security and control post queues, bearing in mind the importance of maintaining consistency with our Final Decision?

Changes to security queue measures and targets necessary to reflect (in a neutral way) the impact of the security transformation programme or the installation of new queue measurement systems;

- 6) Do you consider there is any evidence yet to suggest that changes to reflect the impact of the security transformation programme or new queue measurement systems should be considered as part of this mid-term review?

Possible changes to the way that asset availability targets are applied;

- 7) Do you consider that there is scope for relatively rapid agreement between HAL and airlines on an alternative way to apply asset availability targets? If so, please outline the agreed way this could be applied.

In a strictly limited number of cases, we will consider a possible increase in targets.

- 8) Do you consider that recent performance levels do or do not support an increase in:
- a) the wi-fi performance target to 4.10;⁵
 - b) the availability of check-in infrastructure target to 99 per cent;⁶ and
 - c) the availability of pre-conditioned air target to 99 per cent.⁷

Please give reasons in support of your answer.

Stakeholders may wish to provide additional views to support the review, consistent with the scope as set out in Appendix A.

⁵ Discussed in the Final Proposals at paragraph 3.81

⁶ Discussed in the Final Proposals at paragraph 3.80

⁷ Discussed in the Final Proposals at paragraph 3.80