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Stewart Carter,

Civil Aviation Authority

Sent by email to: [economicregulation@caa.co.uk](mailto:economicregulation@caa.co.uk) & [stewart.carter@caa.co.uk](mailto:stewart.carter@caa.co.uk)

**Re: Delta Air Lines' response to CAA CAP3201 Heathrow Capacity Expansion – Early Costs (second consultation)**

Dear Mr. Carter:

Delta Air Lines, Inc. ("Delta") appreciates the opportunity to provide comments to the Civil Aviation Authority ("the CAA") regarding the regulatory treatment of early expansion costs at Heathrow as set out in CAP 3201, issued on 16<sup>th</sup> December 2025. This consultation follows the previous consultation in Aug/Sep 2025 (CAP 3149) to which we, as members of both the Airline Operators Committee and Airlines for America, and supportive of the submissions of both those entities, opposed the recovery of early costs and the reasons provided for this opposition.

In CAP3179 and now CAP3201, CAA is proposing, despite the objections of the airline community and with little indication of due consideration having been given to those objections, to proceed with option 1(b) as outlined in CAP3149. This letter is the response by Delta to CAP3201, voicing our continued serious concerns about the proposed regulatory treatment of early costs for capacity expansion at Heathrow. It should also be noted that we support the Airlines for America and joint IATA/AOC responses to CAP3201.

To set the context of Delta's response, Heathrow is the third largest long-haul international partner hub in Delta's global network, after Delta's international long-haul hubs at Amsterdam (AMS) and Paris-Charles de Gaulle (CDG). Delta currently serves Heathrow from seven (7) hubs in the U.S. (Atlanta (ATL), New York (JFK), Boston (BOS), Detroit (DTW), Salt Lake City (SLC), Seattle (SEA), Minneapolis (MSP)), delivering approximately 2,575 seats daily to Heathrow. For Summer 2026, Delta plans to serve Heathrow from the U.S. with ten (10) peak daily flights, or 68 weekly flights. Additionally, Delta and Virgin Atlantic Airways (VAA) launched the carriers' original joint venture in 2013, combining our trans-Atlantic networks between the UK and North America. The combined network reach of the Delta/VAA joint venture covers more than 99% of the overall market demand between the continental U.S. and London. It is clear therefore that Delta has a substantial, long-standing, and future strategic interest in the sustainable development of Heathrow, which includes the provision of economically viable operations for airlines at this airport.

As the CAA is aware, Heathrow is already amongst the world's most expensive airports, and significantly more expensive than all other airports in Europe. We note Heathrow Airport Ltd. (HAL) have already proposed to raise charges by 47% (real terms 2024 prices) in H8 – the current CAA proposal for the treatment of early expansion costs would give rise to an even higher increase in

charges for H8, all else being equal. Further, in its consultation document on regulatory reform (CAP3195), the CAA itself recognizes that increases in charges at the level proposed by HAL "are likely to result in HAL's charges significantly exceeding current charges at other airports even after controlling for other relevant factors" (CAP3195, para 2.68). With the overlapping consultation processes and approaches by the CAA to H8, early expansion costs, and wider regulatory reform, there should be serious concern that the overall impact on airport charges, airline operations and hence consumers, is not being properly evaluated. It is not clear that the CAA has ever considered, or attempted to calculate, the level of airport charges at Heathrow which would constitute a tipping point for continued airline operations. Given the already very high cost level at Heathrow and the very substantial cost being put forward for the building of the 3<sup>rd</sup> runway, of which we are only considering pre-DCO costs at this point, together with the overlapping consultation processes on H8, airspace modernization and regulatory reform – all with the potential to drive further increase in charges – the ability of consumers to fund further cost increases must be front-of-mind for the CAA.

While Delta is supportive of an expanded Heathrow, this must be executed in an affordable manner to ensure the interests of consumers are protected in line with the CAA's statutory duties. In proposing to allow HAL to recover early costs incurred prior to the gaining of a DCO (Development Consent Order) the CAA is instead transferring the pre-consent risk to today's consumers. By removing this risk from HAL, the CAA diminishes their incentive to ensure good cost control of early costs and distorts the cost/benefit analysis which should drive the case for expansion.

The CAA proposals will also undermine its duty to promote competition. The proposals would underwrite the existing monopoly provider HAL as the assumed scheme developer, granting absurdly high early costs with insufficient due diligence. The CAA has assessed both the HAL and Arora Group's proposals to be credible and appropriately mature, yet the HAL early costs are an order of magnitude times greater than those of the Arora Group (£71m vs. £3.5m-£4m for 2025 alone). Despite this difference, the CAA has shared no information with the airline community on the state of development of both proposals which could justify this difference in cost and so provide assurance that the HAL costs were efficiently incurred. Instead, only a cost breakdown for HAL is included in Appendix B, but no information on what the output of that spend was and how it differs from the HWL output for their 2025 spend which allowed their proposal to be considered credible and appropriately mature also. The cost breakdown explaining the £320m total is so short and high level as to make it impossible to understand or critique. As the CAA also intends to allow HAL to purchase residential and commercial property, it again undermines its duty to promote competition. HAL's purchase of residential and commercial property under conditions of being allowed to add such purchases to the RAB and earn a regulated return, could pre-empt competing competitive proposals. A future competing proposal may be in the absurd position of seeking to buy property *from HAL* that was *not even funded by HAL*, in circumstances where HAL would have no incentive to sell.

Overall, the proposals are for regulatory actions to be taken without a meaningful and robust assessment of the efficiency of capital spend, leading to a conclusion that the CAA is responding to a political timetable rather than proceeding on sound principles of economic regulation. By the CAA's own admission "*the overall 'benefits assessment' for expansion is subject to uncertainty...*"(para 2.23), yet a positive expected outcome from a cost/benefit assessment being a necessary condition is a fundamental principle of approving any discretionary capital under economic regulation. Instead, to align with the Government-set timetable for delivery of the 3<sup>rd</sup> runway, the CAA is intent to protect HAL from normal business risk – skewing the cost/benefit assessment - despite this insulation from risk coming at the expense of consumers.

So intent is the CAA on facilitating the Government-set timetable in CAP3201, that it is prepared to pre-empt regulatory decisions that properly belong to other consultation processes. Delta considers that the CAA proposal to allow recovery of early costs pre-empts the outcome of the regulatory review and sets a precedent for the treatment of costs from 2027 onwards.

We ask that the CAA's current proposals be withdrawn, because of serious issues with its substantive assessment and process, and that the CAA reconsiders its position based on a thorough, balanced and

independent assessment of costs and benefits. For the avoidance of doubt, none of the measures suggested to “protect consumers” (the ex-post review, monitoring and assurance, the cap on recoverability, the new obligation, the reopener, and transparency obligations) could make any material difference to the fundamental concerns outlined above and will do little to sensibly constrain HAL’s early spending. Should the CAA press ahead, despite the objections of the airline community with its current proposals to allow for recovery of early expansion costs, then, at a minimum, the following actions must be taken. For brevity, we include only the actions themselves; the rationale for each is laid out within the joint IATA/AOC submission to this consultation with which we concur. In brief, these actions would be to seek to mitigate (albeit not avoid) the level of costs to be borne by consumers. It should be taken as read that this is without prejudice to Delta’s position that all such costs are inappropriate, as set out above.

1. The independent cost assessor must be appointed by, and report to the CAA.
2. HAL must provide the CAA, airlines, and the independent assessor with a full comparison of new workstreams against the pre-Covid expansion workstreams.
3. An audit of 2025 costs must be carried out a.s.a.p. including identification of any duplication with previous expansion work.
4. CAA must satisfy itself and provide evidence of ensuring best practice including evidence of Benchmarking (how does this compare with LGW DCO costs, for example)
5. An ex-ante cost approval mechanism must be implemented, with strengthened tests for spend such as land acquisition.
6. The spend-cap must be binding, with any application for raised cap subject to consultation and robust ex-ante checks by independent assessor, and no approval unless deemed absolutely necessary and demonstrably efficient.
7. If the expansion scheme is abandoned, an unambiguous claw-back mechanism for any allowed early costs needs to be put in place so that consumers are compensated.
8. CAA must ensure that any land acquisition undertaken by HAL is compatible with providing a level playing field and does not limit options or add costs for other promoters.
9. Any land acquisition must remain within the single till.
10. Pre-DCO return for HAL should be limited to Cost of Debt rather than WACC.

Thank you for your attention to these comments. Please let us know if any additional details or other information would be helpful.

Respectfully,

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