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British Airways response to CAA review of Terminal Drop Off Charge

Dear Mark

Thank you for the opportunity to respond to the letter of 12 December 2024 setting out the background to the CAA's review of the revenue allowances for the Terminal Drop Off Charge (TDOC) for the H7 price control period charged by Heathrow Airport Limited (HAL).

Our response should be read in conjunction to our earlier responses on TDOC to the CAA's H7 Final Issues consultation submitted in April 2024 (CAP2980), the CAA's decision on the H7 Final Issues of July 2024 (CAP3001), and our response to HAL's 2025 charges consultation of September 2024 which we have previously shared with the CAA.

Our comments on the review are focused on the TDOC risk sharing mechanism, the impact that TDOC has had on HAL's other commercial revenues and the potential future treatment of TDOC revenues.

TDOC risk sharing mechanism

We support the CAA in applying the TDOC risk sharing mechanism in Condition C1.19 of the licence (TDO_t factor) as intended by the regulator and we are not seeking to reopen the H7 price control. We note however that HAL has already incorrectly applied this Condition in its 2025 charges and has unsuccessfully sought to reopen the price control during the Final Issues consultation.

As noted by the CAA both in its H7 Final Proposals[1] and its decision on the H7 Final Issues[2], the TDO_t factor addresses two types of risk:

[1] CAP2365, H7 Final Proposals, June 2022, paragraphs 5.16, 5.74 and 5.77.
[2] CAP3001, Decision H7 Final Issues, July 2024, paragraphs 7.27-7.31.

1. The risk that legislation may remove or reduce the level of the TDOC that HAL can charge, thereby protecting HAL from the risk legislative change. This risk has not materialised to date given that HAL continues to charge the TDOC and as of January 2025 has increased the TDOC by 20% from £5 to £6 per vehicle.

2. The risk that HAL could "*significantly increase the charge and retain the extra profits*"[3]. To address this risk, the CAA "*built […] a 65%/35% risk sharing arrangement so that, if the revenue from this charge were to be greater than forecast, airport charges would reduce by approximately two thirds of the difference*".[4] The CAA went on to clarify that "*the approach set out in the [H7] Final Decision was designed to address the risk of revenues from TDOC being higher than forecast, not lower as has turned out to be the case*".[5] (our emphasis added). […].[6]

We consider that the CAA's structure and intent of the mechanism are clear. However, we believe that HAL has incorrectly applied the risk sharing mechanism in the 2025 charges by levying an additional £0.05 on the Maximum Allowable Yield for a TDOC revenue shortfall of £3.8 million for 2025 (65% of a total shortfall of £5.9 million, as also indicated in the revenues communicated by HAL reproduced in Table 1 of the CAA's letter on the review). This is not the purpose or intent of the risk sharing mechanism as described above. […][7].

While HAL has had the ability to amend its pricing sooner, it decided not to do so. We can assume that this has been for wider strategic reasons that have yielded benefits elsewhere. Indeed, the CAA confirmed in the H7 process that HAL ought to adopt a commercial approach to maximise TDOC revenues.[8] Consumers should therefore not be liable for HAL's own choice not to price to its allowed revenues. We equally note the CAA's statement that HAL had forecast revenues from TDOC being equal to the CAA forecast for 2024 and we stress that consumers should not be paying for these forecasting errors in the future. In any event, as noted above, HAL is not entitled to recover shortfalls under the TDOC risk sharing mechanism.

Further, we note that HAL's increase to the price of the TDOC from £5 to £6 in January 2025 has been explained […] due to decreasing revenues due to a shift in other modes of transport, including public transport. This was precisely the intention for introducing the TDOC, with an objective to reduce cars from using the terminal forecourts. We do not think the purpose of the mechanism is to provide HAL with a revenue guarantee for something that it is actively trying to reduce.

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[3] CAP3001, paragraph 7.28.
[4] *Ibid.*
[5] CAP3001, paragraph 7.30.
[6] […]
[7] […]
[8] CAP2365, paragraph 5.74.

We therefore ask that in the TDOC review, the CAA:

- Re-iterates that revenue shortfalls to the CAA's forecast are not covered by the 65/35 risk sharing mechanism in the TDO_t factor and confirms that HAL is not able to claim such shortfalls under the H7 licence.

- Instructs HAL to return to users the £0.05 shortfall levied on the Maximum Allowed Yield for 2025 as this is not covered by the risk sharing mechanism. This can happen in the 2026 charges or through a credit note and does not require a licence modification as HAL incorrectly applied the licence and was not entitled to the monies.

Future treatment of TDOC revenues

Any assessment for the future treatment of TDOC should happen in the context of the subsequent H8 price control for which the Constructive Engagement process was launched in October 2024. The revenues set for H8 can reflect the impact of potential future legislative change to remove or reduce the TDOC. If the TDOC is eventually deemed to be part of HAL's other commercial revenues, we note that the same efficiency targets would apply and that there should still be no revenue guarantee in case HAL opts not to price to the allowance.

Public transport revenues

We agree with the CAA establishing the extent to which HAL is generating, and thereby benefitting from, increased commercial revenues because of the introduction of TDOC. These notably concern public transport and car park revenues, given HAL's claims that the TDOC has resulted in a shift in other modes of transport. Any additional commercial revenues generated due to TDOC should be returned to consumers to avoid the risk of HAL benefitting at their expense.

We welcome further engagement as the CAA develops its thinking on the TDOC review.

Yours sincerely,

Michael Petrides

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