March 4, 2021

Mr. Paul Smith
Group Director of Consumers and Markets
UK Civil Aviation Authority

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Re: CAP2098 and 2098A – Heathrow Airport Limited's Request for a COVID-19 Related Regulatory Asset Base Adjustment

Dear Mr. Smith,

Airlines for America ("A4A"), on behalf of its members,[1] appreciates the opportunity to comment on CAP2098 and 2098A setting out the Civil Aviation Authority's (CAA) latest thinking on Heathrow Airport Limited's (HAL) request to reopen the Regulatory Asset Base ("RAB") to compensate for pandemic-related losses. Three of A4A's members – American, Delta and United – and one associate member – Air Canada – operated extensive services between North America and Heathrow prior to COVID-19, have been committed to serving Heathrow, albeit with limited services, throughout the pandemic, and are anxious to restore their full schedule of services as soon as possible. As such, A4A members have a strong vested interest in the outcome of this consultation. We support the joint comments that LACC and the AOC have submitted but wish to supplement them with brief comments of our own.

We have two preliminary observations. First, the CAA has identified an appropriate framework to assess the case for regulatory intervention in HAL's price control arrangement. The framework focuses on the CAA's primary duty to further the interests of consumers. It also identifies other factors that the CAA has a statutory obligation to consider, including principles of better regulation.

Second, we support the CAA's decision to eschew Options 3 and 4. Either approach would impose significant costs on consumers without providing clearly defined benefits. The issues raised by both options are best discussed during the H7[2] price review when stakeholders will have a full opportunity to canvass the evidence and offer informed opinions. We agree with

[1] A4A is the principal trade and service organization of the U.S. scheduled airline industry. Members of the association are Alaska Airlines, Inc.; American Airlines Group, Inc.; Atlas Air, Inc.; Delta Air Lines, Inc., Federal Express Corporation; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.
[2] The CAA defines H7 as the next HAL price control that they assume will be in place from 1 January 2022. If set for the usual five-year period, this will run for the years 2022 to 2026.

LACC/AOC that the need to promote competition in the provision of airport services should be a central part of the assessment framework.

The CAA is considering the two remaining options. Under Option 1, the CAA would consider the key issues around HAL's proposed adjustment, cost of capital, appropriate charges, incentives for investment and quality of service later in 2021 as part of the H7 price control review. Under Option 2, the CAA would adjust the RAB adjustment ahead of the H7 price control review based on factors such as HAL's financial position, the level of investments and cost of capital.

Several reasons strongly counsel in favor of Option 1. First, Heathrow charges are already among the highest in the world. The focus should be on encouraging travel post-COVID rather than depressing demand through the imposition of additional charges on passengers.

Second, HAL has failed to present evidence that urgent intervention is justified. To the contrary, HAL continues to enjoy strong liquidity and has repeatedly reassured its investors that there is no danger that it will breach its covenants.

Third, the appropriate time to address HAL's losses is during the H7 periodic review. At several points throughout the Consultation Paper, the CAA identifies the significant challenges with calculating the appropriate scale of any intervention in advance of the H7 price review. This H7 review includes a holistic examination of the important links between any RAB adjustment, the cost of capital, future charges and HAL's financeability. As the CAA correctly observes: "[t]hese should be assessed in the round to make sure that charges remain affordable and HAL faces a reasonable risk and reward package in H7."

Fourth, Option 2 is inconsistent with the Q6[3] regulatory framework. An important principle underlying the Q6 price control is that HAL and its shareholders would be responsible for its actual financing and would bear any associated risks and costs. In our view, HAL's shareholders should inject equity to remedy HAL's difficulties because they enjoyed excessive returns during the Q6 price control period. Certainly, the CAA should avoid making an intervention ahead of the H7 price review that could cast consumers as the victims of HAL's financing choices.

Finally, we agree with several of CAA's important conclusions. In particular, we support the CAA's decision to reject HAL's proposed capex because it has not navigated the capex governance and engagement process that is a key part of the regulatory framework. Equally, we agree that a RAB adjustment would not necessarily generate a better credit rating for HAL or allow HAL to continue to access investment grade debt finance.

In October 2020, the CAA concluded that the evidence provided by HAL did not justify its request for urgent intervention. In A4A's view, HAL continues to fail to offer evidence that intervention is justified in advance of the H7 price review. As a result, we respectfully request the CAA to undertake a wider review of HAL's price control arrangements in 2021 for the H7 price review period, including a consideration of any adjustment needed to reflect the impact of COVID-19 in 2020 and 2021. This approach will allow the CAA to take account of the on-going uncertainty surrounding the speed of recovery and the link between any intervention and the overall price control package. In closing, perhaps the best way to address any adjustment to

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[3] The "Q6" price control is the price control for the period from April 2014 to end of December 2018, the approach to which has subsequently been successively extended to cover 2019-2021. For the Q6 final decision, see www.caa.co.uk/cap1138.

that risk going forward is to have a subsequent review instead of attempting to back into the H6/iH7 period to determine what appropriate actions are warranted.

We thank you for your kind attention to these comments. Please do not hesitate to contact us if you have any questions or require further information.

Sincerely,

Keith Glatz
Vice President – International Affairs