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Response to the CAA's Working Paper on Regulatory Models Consultation (CAP 3195)

This response to CAA consultation CAP 3195 is submitted by Heathrow West Limited (**HWL**). HWL is part of the Arora Group, which, as the CAA is aware, is a founding member of Heathrow Reimagined. The Arora Group (including HWL)'s views will therefore be made known to the CAA in the joint response submitted separately by Heathrow Reimagined.

Our purpose in submitting this response is to highlight some discrete points that are specific to HWL as a prospective DCO applicant, with its own proposals for capacity expansion at Heathrow airport.

1. HWL STRONGLY SUPPORTS THE CAA'S ONGOING EVALUATION OF THE REGULATORY MODEL

1.1 We do not propose to repeat here our views on the CAA's ongoing work and provisional conclusions set out in the separate Heathrow Reimagined submission. We do however reiterate that we welcome the CAA's provisional finding regarding the need to revisit the current regulatory model to better serve the interest of consumers. The evidence of the model's current failings is clearly compelling and warrants fundamental reform (as explained at length in the Heathrow Reimagined submissions). In assessing the performance of the regulatory model, we also urge the CAA not to confine itself to evidence submitted to it as part of this workstream but also consider in the round all of the evidence it holds on Heathrow Airport Limited (**HAL**)'s conduct. This should for instance include issues relating to Other Regulated Charges on which we have been engaging with the CAA for some time. In aggregate this evidence demonstrates the regulatory model's failure to adequately constrain HAL's significant market power.

1.2 We also strongly support the CAA's position that any decision by the Government to name a statutory undertaker, if any, should not materially impact the CAA's review of regulatory models or consideration of where there continues to be scope for competition in airport infrastructure. We would say it should have no impact at all. The CAA is an independent regulator with a set of statutory duties to drive its priorities and workplan, including a duty to promote competition, faced with persuasive evidence regarding the failings of the current model. It now has a once-in-a-generation opportunity to put this right. Any Government decisions relating to an element of Heathrow expansion should have no bearing on the CAA's broader evaluation of the regulatory model for Heathrow airport (particularly as concerns existing airport operations).

- 1.3 HWL supports the view that the “[CAA] *should consider the most appropriate regulatory model as it applies in the context of major capex programmes*” owing to the specific characteristics of these projects, including those set out in paragraph 2.69 of the CAA consultation document. HWL agrees that the many unique constraints and challenges thrown up by these programmes justifies the CAA’s interest in decoupling the regulation of major projects from a regime that is conceived largely to govern “business-as-usual expenditure”. Regulating for expansion separately will also facilitate easier comparison with alternative proposals for expansion. As part of that, we view the introduction of more competitive pressure and discipline into the capacity expansion programme at Heathrow airport as critical to delivering better consumer outcomes. Accordingly, we endorse the CAA’s position that competition can be more effective than regulation (set out at paragraph 1.7) and that a level playing field approach has the potential to deliver benefits for consumers.¹
- 1.4 Whether as part of the CAA’s overall workstream to evaluate alternative regulatory models or in addition to it, the CAA will need to develop a regulatory framework capable of accommodating third party proposals, such as HWL’s, in a timely manner. Specifically, the CAA will need to:
- (a) Consider the adjustments to the existing/future regulatory model that are required to facilitate and support HWL’s expansion plans, if it becomes a successful DCO applicant; and
 - (b) Ensure that the framework design recognises and caters for appropriate information sharing in such a way that reflects the interests of competing promoters and consumers and without entrenching HAL’s incumbency advantage. The framework must solve for concerns about duplication and inefficient costs incurred by multiple promoters and be suitable to achieve the CAA’s ambition for coordination which has stakeholder support.²
- 1.5 We expand on each of these points in turn below.
- 2. THE CAA MUST URGENTLY BEGIN DESIGNING A REGULATORY FRAMEWORK TO ACCOMMODATE HWL’S PROPOSALS**
- 2.1 The Government has set an ambitious timetable for the delivery of expansion plans at Heathrow airport, and the CAA has a critical role in designing a regulatory framework to accommodate expansion plans.
- 2.2 The CAA has previously recognised the need to develop the regulatory framework in a timely way to cater for the possibility of a third party being granted a DCO, both to support efficient investment and ensure consumers are properly protected.³ Indeed, the regulatory framework

¹ Referred to in the CAA’s separate consultation on the regulatory treatment of early costs of capacity expansion at Heathrow Airport (CAP 3201) but related to this.

² See for instance the summary of feedback received from AOC/LACC on the methods for avoiding duplication of costs from multiple promoters in CAP 3021, para 2.108. See also HSPG feedback, summarised in para. 2.110.

³ CAP 1722, Chapter 3, October 2018.

will be a key consideration in the determination of a competing promoter's DCO application, and inform crucial aspects of that promoter's case, including how it will fit into the overall expansion plan. The CAA's reasons for accepting HAL's position on early costs apply equally to HWL: it needs clarity and certainty to allow momentum in delivering its plan,⁴ particularly given the ambitious timetable. The CAA has acknowledged the risk of delay which uncertainty may cause⁵ (and which it has been considering at length in relation to HAL). It is therefore imperative that the CAA develops this framework sufficiently in advance to ensure that it does not (unwittingly) preclude the very competition that many of its alternative regulatory models are intended to promote. The CAA's statutory duties – in particular the duty to perform its functions in a manner which promotes competition – require it to act in this manner, as does its “level playing field approach”.⁶

- 2.3 HWL is currently committing significant resources to develop a competing DCO application for expansion – and potentially deliver the competition put forward by the CAA in several regulatory models under consideration. It will be critical for the CAA to develop a regulatory framework to accommodate its proposals in time and ensure HWL is not effectively ‘timed out’ or negatively affected by any regulatory delay. By the time of the submission of HWL's DCO application, the CAA⁷ will need to have a clear view on the applicable regulatory framework (among other things), including how to address issues such as access to common facilities operated by HAL and the potential regulation of HWL. To the extent that this does not already form part of the CAA's ongoing (and more general) evaluation of alternative regulatory models, we urge the CAA to launch this workstream urgently. Taking action early will also signal to competing promoters that the CAA recognises this risk and is willing to act to mitigate it.
- 2.4 The CAA previously assessed HWL's proposals as sufficiently credible and mature to warrant detailed consideration,⁸ and has alluded to a similar view more recently in the consultation on the proposed treatment of early costs.⁹ We would therefore expect the CAA to be close to a position where it can begin detailed consideration of the broad scope of a regulatory framework for HWL. We would welcome clarification from the CAA on the process and timetable for this workstream and look forward to engaging with the CAA on it. As part of this engagement, we would particularly welcome transparency on the criteria (if any) that the CAA (and DfT) will use as part of the assessment of any competing proposals such as HWL's,¹⁰ including the process and timing of such consideration.

⁴ CAP 3201, paragraph 2.8

⁵ CAP 1722, para. 3.27.

⁶ CAP 3201, para. 2.113.

⁷ In particular in its capacity as a statutory consultee.

⁸ CAP 1940, Appendix G.

⁹ CAA publication titled, “Proposals on the regulatory treatment of early costs of capacity expansion at Heathrow airport” (CAP 3201), para. 1.29.

¹⁰ For example, we look forward to the publication of Steer's Initial technical and cost efficiency assessment of capex expansion plans for Heathrow Airport, December 2025.

3. THE CAA MUST DESIGN A REGULATORY FRAMEWORK THAT DELIVERS A LEVEL PLAYING FIELD AND PRE-EMPTS ISSUES RELATING TO COORDINATION AND INFORMATION PROVISION

- 3.1 HWL will comment separately on the CAA’s proposed approach to early costs recovery set out in CAP 3201. However, recognising that these considerations cannot be divorced from the practical challenge of securing the necessary engagement from HAL (including the provision of information), here we comment on aspects of the design of the regulatory framework which is necessary to deliver a level playing field between competing promoters and to secure the CAA’s ambition for coordination to reduce wasteful and duplicative expenditure between competing promoters.
- 3.2 We strongly welcome the CAA’s intention to work with potential promoters to understand issues relating to the potential for enabling costs to act as a barrier to competition and to consider potential solutions to mitigate such issues (including in relation to coordination and the sharing of information).¹¹ While the status of this workstream is not currently clear, we look forward to working with the CAA on these issues. The CAA will be aware of the significant concerns raised pre-pandemic by stakeholders, including airlines and Arora, regarding HAL’s failure to meaningfully engage with third parties such as HWL in relation to the provision of information.
- 3.3 The CAA (working where necessary with the Government) must design a regulatory framework which avoids a repeat of such issues, particularly in the light of the Government’s ambitious timetable which only compounds HAL’s ability and incentives to use delaying tactics to foreclose competitors. We urge the CAA to get on the front foot with such issues and appropriately address the risk of HAL abusing its substantial market power. This may involve, where necessary, requesting additional powers from Government.¹²
- 3.4 The CAA (and potentially Government) has a key role to play in helping competing promoters to avoid incurring duplicative and/or inefficient costs and in preserving a level playing field, including by ensuring that availability and access to data does not frustrate the CAA’s ambition to introduce regulatory competition and its duty to promote the interests of consumers. It is also urgent that this work begins as soon as possible to ensure it is effective at shaping behaviour during the DCO process and guarding against the risk of foreclosing competition.
- 3.5 The regulatory framework should (at a minimum) require or appropriately incentivise promoters to coordinate on matters which are non-contentious and promoter-agnostic, such as (by way of illustration) environmental surveys, impact assessments and stakeholder or community engagement. It would enable the DCO process – and competition between promoters – to focus on respective parties’ outputs from such studies, rather than inputs. There are clear benefits to a common approach, including reducing stakeholder fatigue, cost and

¹¹ CAA, Update on the regulatory treatment of the early costs of capacity expansion at Heathrow airport, CAP3173, 25 September 2025, page 7.

¹² Although we note the CAA has emphasised its substantial discretion in paragraph 2.115 of CAP 3201.

confusion, and saving time. Such an approach also has the support of several stakeholders,¹³ and we expect would be welcomed by the Planning Inspectorate and landowners.

- 3.6 A common approach could take the form of a joint instruction between HAL and HWL of a third party to carry out such work. Alternatively, if it is more efficient for HAL to carry out particular work or categories of work, this must be in the expectation that HAL will engage openly with alternative promoters to agree the proposed scope and then make the outputs available without delay to rival promoters.
- 3.7 To be effective, this approach should ideally be overseen by an independent third party or the CAA, potentially with regular reporting on requests for information received and how they were responded to. It should also comprise safeguards to protect commercially sensitive information, and assess the credibility of any claims refusing access to data based on the sensitivity of the requested information. We would expect this assessment to mirror the approach taken by the CMA under Part 9 of the Enterprise Act 2002.
- 3.8 Under this approach, all promoters would share the burden of demonstrating that costs have been efficiently incurred and aren't wasteful, and should be made to justify any decision not to coordinate their activity.
- 3.9 By designing a framework that solves for concerns about confidentiality and competition law, the CAA can help to alleviate the potential for competing promoters to incur duplicative and/or inefficient costs and crucially, address head on any artificial barriers to information sharing that may be constructed.

4. CONCLUSION

- 4.1 HWL recognises the significant work involved in compiling the regulatory models consultation and is encouraged by the wide-ranging approach of the CAA. We urge the CAA to have regard to the points raised in this response and are ready to engage with the CAA in relation to the process and timetable for developing the regulatory framework.

Yours sincerely,



Carlton Brown
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¹³ See for example the views of AOC/LACC and HSPG referred to in footnote 2 above.