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Response to Review of H7 Terminal Drop Off Charges ("TDOC") Revenue Allowances

Thank you for the letter dated 12th December 2024 re the above ("TDOC Review Letter") and the opportunity to respond with comments, including on our deep concern with efforts by Heathrow Airport Limited ("HAL") to re-interrupt and re-open the TDOC H7 settlement.

This submission is made jointly by the London (Heathrow) Airline Consultative Committee ("LACC") on behalf of IATA and Heathrow Airline Operators Committee ("AOC"), collectively referred as (the "Airline Community") and builds on, and should be read in conjunction with, the consultations referenced within this response.

TDOC Revenue Targets were assessed including Inflation.

It was HAL that brought forward proposals to introduce a TDOC with information provided to, and fully assessed by, the CAA as part of the H7 process. Such evidence considered by the CAA included updated information provided by HAL at the time, as per the CAA's statement within the Final Proposals that *"We have updated our forecasts for the TDOC in response to further information provided by HAL."*¹

Such consideration of the final target set on HAL also took into account the CAA's consultant's input, as summarised in the Final Proposals *"CTA has updated its analysis across all categories of revenues since our Initial Proposals, primarily based on new information from HAL.....These changes to assumptions reduce estimated TDOC revenues by £187m²."*

As such, the underlying revenues for TDOC set by the CAA were assessed with opportunity for parties to submit evidence and supporting information at the time. We note that TDOC was not an area HAL sought to appeal to the CMA.

We also note that, in relation to inflation, as well as HAL's freedom to level charges to account for such, as covered later in this response, there is an explicit consideration made within the figures provided by HAL as captured in the H7 Initial Proposals (**Bold underline** added for emphasis)

*" HAL intends to introduce a terminal drop-off charge at Heathrow airport. The proposed charge will be in the form of a fixed levy for vehicles that drop-off passengers at the forecourts to the four Heathrow terminals. **HAL has suggested a level of the charge of £5 in 2022 to 2024, with this likely to increase to £6 in 2025 to 2026 to reflect a proposed inflationary increase which will be reviewed and refined later in H7.** HAL has said it plans to implement the charge in Q4 2021³."*

¹ Paragraph 5.46, H7 Final Determination

² Paragraph 5.55, H7 Final Determination

³ Paragraph 5.45, H7 Initial Proposals

TDOC Revenue within HAL's Control.

In response to concerns raised by airlines on the potential level of charges, the CAA introduced a requirement for HAL to notify airlines and the CAA of any increases of the charge beyond 10% of the baseline levels, but crucially in relation to the context of this review *"not to require HAL to formally agree any charge increase in advance with the CAA or airlines."*⁴

Notwithstanding the need to consult (and the risk sharing aspect as covered below), the management of TDOC revenues is therefore no different to other commercial revenue areas such as car parking, and therefore within HAL's control to manage accordingly.

CAA's Policy re Risk Sharing is Clear.

As set out in both CAA CAP3001 and the TDOC Review Letter, it is clear the circumstances upon which the risk sharing mechanism was introduced and intended:

- (i) in the event of HAL over-recovering on TDOC revenue, given the concerns raised by airlines at the time and recognised by the CAA; and
- (ii) in the event of legislative change which may have meant such a charge was not permissible (anticipated at the time to be effective from 2024 but since withdrawn) and therefore HAL unable to recover the TDOC revenue.

We provided references within our response to CAA CAP2980, but point to Paragraph 5.45 of the Initial Proposals, which were adopted, (with **bold underline** added for emphasis) as a useful summary:

"Further details of HAL's proposals are set out on its website. We need to consider how best to regulate this new charge in order to protect consumers' interests given the material level of uncertainty around volumes and the new pricing arrangements. To deal with these issues in a way consistent with the interests of consumers our Initial Proposals are to introduce:

- a risk sharing mechanism under which **HAL would bear 35%** of any differences between actual and forecast drop-off charge revenues in H7, **so if the revenue is greater than forecast**, airport charges would reduce by approximately two thirds of this difference;
- a requirement for HAL to notify airlines and the CAA of any increases of the charge beyond 10% of the baseline levels noted above, **but not to require HAL to formally agree any charge increase in advance with the CAA or airlines;**
- **inclusion of a provision to adjust HAL's price control in the event that a change to statutory legislation** (that might include a change made to introduce 10 minutes of mandatory free parking) that would prevent HAL from levying a terminal drop-off charge. Such an event would reset the assumption on drop-off charge revenue to zero and allow HAL to recover the H7 projection of this revenue from airport charges; and
- application of the above adjustments through a new term in HAL's licence with an in-period true up through the K-factor."

HAL over-charged in 2025 Aeronautical Charges

As raised with the CAA at the time and captured within multiple airline and airline community responses to HAL's 2025 aeronautical charges consultation, by erroneously applying a £0.05 uplift on the Maximum Allowable Yield for 'revenue short-falls' from TDOC, HAL has over-recovered revenue which, subject to the conclusion of this review, must be returned.

⁴ Paragraph 5.46, H7 Initial Proposals

Conclusion:

It is clear that HAL has sought to re-open and reinterpret the TDOC settlement despite a full assessment of the revenues and clear position on the risk sharing mechanism set by the CAA, culminating in the unwarranted action of using the 2025 aeronautical charges to address revenue shortfalls.

Given there has been no legislative change and with consideration of the further background set out within this response, it is clear that any further updates to TDOC, either in approach and / or revenue assessment is a matter for H8.

We strongly encourage and support the CAA in instructing HAL to:

1. properly apply the risk sharing mechanism, as clearly set out by the CAA, and cease efforts in incorrectly seeking to re-open, recover and raise charges from any prior or future revenue under-recovery (notwithstanding the condition in the event legislation came into effect which prevent such recovery) or inflationary assumptions; and
2. immediately return through the 2026 charges (or some similar mechanism) the £0.05 shortfall levied on the Maximum Allowable Yield in 2025.

We thank you for your consideration and make ourselves available to discuss any aspect further.