virgin atlantic

Virgin Atlantic Response to consultation on the Economic Regulation of NERL: Initial proposals for modifying the Licence to support the implementation of a UK Airspace Design Service (CAP 3121)

Virgin Atlantic welcomes the creation of UKADS as a "single guiding mind" for UK airspace modernisation and agrees that a coordinated approach to airspace design is needed to deliver efficiency and capacity benefits. However, our support for the UKADS proposal is conditional on the implementation of strong safeguards and reforms in several key areas to ensure the initiative delivers genuine benefits for users while upholding accountability and cost-efficiency.

UKADS Charge

Charging Mechanism

We support the CAA's preference for an OPEX pass-through during NR23 as it minimises financing costs and keeps focus on near-term delivery. However, we want to emphasise that this approach is essentially risk-neutral for NERL, shifting financial risk to airlines. NERL will recover whatever it spends, which could blunt their incentive to minimise costs.
The CAA should look at alternatives like government loans or grants to offset some costs, since modernised airspace has public/environmental benefits too.

Cost Projection Clarity and Accountability

We wish to express concern about the ongoing ambiguity surrounding UKADS cost projections. In its consultation response, NERL itself challenged the reliability of the cost model developed by Egis, describing it as based on assumptions inconsistent with its own internal planning and only suitable as an "order of magnitude" estimate. While some uncertainty is understandable at the early stages of such a programme, it is now eight months since the original consultation, and stakeholders have yet to receive a significantly improved or more refined cost estimate.

We question why, in this time, the CAA and its advisers have not provided a more robust financial baseline. A mature projection should now be possible, and we urge the CAA to publish an updated model based on NERL's evolving delivery plan. In the meantime, we expect the current £19.4 million per year estimate (medium scenario) to be treated as an upper boundary. Any material increases in costs or proposals to extend charging beyond what has been outlined to date must trigger a fresh consultation with airlines.

Cost Control and Transparency

To protect users from unchecked cost escalation, Virgin Atlantic urges the CAA to build in the following safeguards:

<u>Ex post efficiency assessment</u>: We request that the CAA require periodic independent reviews of UKADS. For example, an ex-post efficiency assessment, conducted by the CAA, could assess whether NERL is controlling UKADS expenditures effectively. Publishing such findings would incentivise NERL to avoid waste and help identify any overspend early.

<u>Ring-Fencing of UKADS Costs:</u> It must be ensured that only incremental new airspace design costs are recovered via the UKADS charge, with no "double counting" of activities already

funded under NERL's existing en-route allowances. Clear definitions of which tasks fall under UKADS (versus business-as-usual airspace management or previously funded initiatives) should be published to avoid any cost shifting. This ring-fencing will ensure airlines are funding genuinely new value-adding work, not paying twice for the same output.

<u>Re-consultation Triggers for Cost Increases</u>: We ask the CAA to implement a mechanism whereby any significant increase in forecast UKADS costs would trigger a re-consultation or heightened regulatory scrutiny before those higher costs are passed on. For instance, if projected costs exceed the current estimates by more than a certain threshold, the CAA should pause and seek further input or approvals. This provides a circuit-breaker against uncontrolled cost expansion and reassures users that they will not face an open-ended "blank cheque" situation. In short, airlines should not bear the risk of substantial budget overruns without additional oversight and agreement.

Emerging Airspace Users

The UKADS cost model should be broadened to include contributions from all beneficiaries of airspace modernisation, not just commercial airlines. New airspace entrants such as unmanned aerial vehicles (UAVs), advanced air mobility (VTOL) operators, and even spaceport-related traffic will increasingly benefit from lower-level airspace changes. Under the user-pays principle, it would be unfair for legacy airlines alone to shoulder the full cost of designing this modernised airspace. We believe the charging scheme must evolve to require these new categories of airspace users to pay their fair share, especially since many proposed airspace changes at lower altitudes will disproportionately benefit those emerging users.

Opposition to a NERL Profit Margin for UKADS

Virgin Atlantic does not support allowing NERL to earn an additional profit margin for providing UKADS. We note that the CAA's preferred approach is an "OPEX with margin" model with a 1% operating margin on UKADS costs. While 1% may appear small in absolute terms (approximately £0.5m over 2.5 years), we are concerned about the precedent this sets. Establishing any guaranteed margin for a monopoly service provider performing a mandated function is unwarranted. NERL is already the UK's monopoly en-route Air Traffic Service provider responsible for managing the airspace and compensating it extra for designing the very airspace it controls raises competition and incentive concerns. In our view, granting a profit on a pass-through cost basis could dilute NERL's incentive to pursue efficiencies and effectively rewards a monopolist for fulfilling its regulatory obligations. We urge the CAA to reconsider this aspect; even a modest margin sets a problematic principle when the activity is essentially low-risk and already within NERL's remit. Virgin Atlantic believes UKADS should be provided on a cost-recovery (at most break-even) basis during the current period, rather than establishing a new profit element for NERL.

Consideration of Future Pricing Models

We support the principle of aligning the UKADS charging mechanism with NERL's established regulatory control periods (such as NR28) for consistency. However, given that the NR28 price control consultation is coinciding with the very inception of UKADS, the service will not yet be sufficiently mature for airlines to propose any meaningful refinements to its cost model during this cycle. In practice, UKADS is only expected to become fully operational towards the end of 2025, so trying to implement significant changes (for example, a transition to a RAB-based funding model) in the NR28 timeframe would be premature. We recommend maintaining a stable initial charging framework through NR28 and revisiting major structural changes once UKADS has an established track record and clearer scope.

Influence of Future Legislative Changes

The structure and budget of UKADS must remain adaptable in light of future legislative or regulatory changes, including potential reforms to the CAA's airspace change process (CAP 1616) and related government guidance. The DfT and CAA have already signalled intentions to streamline and simplify the airspace change framework by late 2025. If such initiatives (or other changes in law and policy) make the airspace design process more efficient, the UKADS charge should be reviewed and adjusted accordingly. In other words, there should be a provision for a mid-period cost review so that any efficiency gains translate into a lower cost base for UKADS rather than being locked in as windfall savings.

Advisory Board

Governance and Oversight

Virgin Atlantic remains concerned that the current governance arrangements, as outlined in the CAA's policy paper on Governance and Engagement, do not go far enough in ensuring that airlines, who are the primary funders of UKADS, have an appropriate and proportionate role in strategic oversight and decision-making. While we welcome the creation of the Advisory Board, its current remit is largely advisory in nature, with no formal authority over the prioritisation of airspace design work or the strategic direction of UKADS. Given the substantial financial contribution made by airlines through the Airspace Design Charge, we believe it is imperative that airlines are not merely consulted but meaningfully involved in oversight.

We therefore urge the CAA to revisit the governance framework and explore enhancements that would embed airline representation in core strategic processes. This could include a formal review or approval role for the Advisory Board on key programme milestones, prioritisation frameworks, or budget allocations. Ensuring the Advisory Board is empowered to shape, and not simply observe, the UKADS programme is essential for user confidence and long-term credibility.

Airspace Design Support Fund

We support this Fund in principle as a mechanism to ensure nationwide airspace modernisation is not neglected even while UKADS focuses initially on the London airspace. A well-governed Support Fund could help smaller, or non-London airports advance necessary airspace changes that ultimately benefit the entire network. However, our support is again contingent on greater clarity and assurance around the Fund's governance, criteria, and transparency.

NERL has expressed concerns about being responsible for administering the Fund, and we share those concerns. In its response to the initial consultation, NERL noted that managing the ADSF would involve making policy-laden judgments on prioritising and funding various airspace projects; a role that does not sit comfortably with NERL's operational focus. NERL suggested that it would be more appropriate for the CAA to oversee the Support Fund, given the CAA's role as co-sponsor of airspace modernisation and its experience administering similar funds for the Airspace Modernisation Strategy. We agree that transferring ADSF governance to the CAA would not only ensure more impartial and transparent management of the fund but also allow NERL to concentrate on delivering the critical London TMA airspace changes. This approach addresses our governance concerns and enables NERL to focus squarely on its primary task of modernising the busiest airspace in the UK, rather than diverting attention to administering a nationwide funding program.

In conclusion

Virgin Atlantic reiterates its qualified support for the establishment of UKADS as outlined in CAP 3121. We agree with the CAA's vision of accelerating airspace modernisation under a single coordinated service, and we are a willing stakeholder in helping drive this effort forward. Our support, however, hinges on the CAA adopting the safeguards discussed above, namely, refraining from unwarranted profit allowances for NERL, enforcing rigorous cost control and transparency measures, carefully evaluating long-term funding options, strengthening governance and oversight via the Advisory Board, and ensuring the Support Fund is well-governed and aligned with industry needs.