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February 03, 2026

Subject: Joint Airline Response to CAP3190 – NR28 Draft Method Statement and Business Planning (BP) Guidance

Dear Mr Crook,

We thank you for the opportunity to respond to the CAA's consultation on the NR28 draft method statement and business planning guidance (CAP3190). We support the CAA's stated priorities for NR28, particularly safety, understanding user needs, resilience, efficiency and value-for-money, while supporting airspace modernisation. At the same time, we believe NR28 represents a key opportunity to strengthen the regulatory framework in several critical areas, drawing on lessons from NR23 and recent operational and delivery experience.

In particular, we encourage the CAA to place greater emphasis on enforceable resilience and continuity outcomes, including strengthened software assurance, independent validation and clear accountability for major service disruptions. Resilience must be treated as a fundamental regulatory output, supported by incentives that reflect the full operational and consumer impact of significant failures. These incentives will need to be weighed against the financeability requirements for NERL, ensuring proportionality, balance, but also effectiveness.

We also attach importance to embedding a clear and demonstrable link between user and consumer priorities and all elements of NERL's NR28 Business Plan. Airlines' operational requirements for capacity, predictability and resilience directly translate into consumer outcomes, and it is therefore essential that efficiency, affordability and value-for-money are consistently evidenced across OpEx, CapEx, charges and incentive design.

Strong cost discipline and accountability for delivery are equally important. We support the CAA's intention to enhance bottom-up cost scrutiny and to strengthen CapEx delivery incentives. Aligning allowed returns more closely with timely delivery and realised benefits will help ensure that users are not exposed to higher costs arising from delayed or underdelivered investment, while continuing to allow NERL to earn a fair return on efficient expenditure.

Finally, airlines remain concerned that the proposed NR28 timetable risks interim pricing decisions based on incomplete evidence. To mitigate this, we invite the CAA to consider pragmatic options, including a short extension of NR23 followed by a full NR28 control, alongside strengthened independent scrutiny during Constructive Engagement, in line with our response to CAP3174.

We remain fully committed to constructive engagement throughout NR28 and stand ready to work with the CAA to develop robust, proportionate and practical solutions, including through targeted technical workshops, for e.g. on: (i) resilience metrics and calibration; (ii) CapEx governance and delivery incentives; (iii) assessment of efficient allowances.

We appreciate the CAA's ongoing engagement and the opportunity to contribute to this review. We remain committed to working collaboratively to support a fair, transparent and effective regulatory outcome for NR28.

We set out below an **Annex** detailing our detailed positions and specific proposals for the Final Method Statement and BP Guidance for NR28.

Yours sincerely,



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Annex: Airlines' Detailed Position on CAP3190

This response reflects the consolidated position of airlines signatories of this letter. Where relevant, we also reiterate our earlier views on process and timetable risks, including our responses to the CAA's timetable and constructive engagement consultation (CAP3174).

We structure our response by topic, mirroring the key chapters and priorities set out in CAP3190. For each topic we reference the CAA's provisional position and explicit request for feedback and set out our support, concerns, or disagreement, together with specific proposals we believe the CAA should consider to adopt in the Final Method Statement and throughout the NR28 process.

1. Overarching Priorities and Statutory Duties

1.1.1. The CAA sets out five NR28 priorities:

- 1. Safety;**
- 2. Understanding the needs of users;**
- 3. Resilience;**
- 4. Efficiency and value-for-money; and**
- 5. Supporting airspace modernisation.**

1.1.2. The CAA invites views on whether these appropriately support its statutory duties and objectives for NR28.

1.1.3. We agree on the above list of priorities and welcome the clarity provided. We also strongly support the implementation of the conclusions arising from the 2024 Review, the CapEx review, and the Halliwell Report, as suggested by the CAA.

1.1.4. In addition to the above priorities, we suggest NERL also prioritises:

6. Ensuring accountability for service delivery;

- We suggest the CAA ensures appropriate accountability where late or under-delivered investment leads to avoidable degradation in service performance¹.
- NERL is incentivised by the most appropriate and representative capacity metrics to address and account for the most relevant performance measures to customer and consumer needs. We support the CAA's outlined consideration that the current incentive framework needs wholesale review and that there are immediately presented areas due consideration.

7. Safeguarding service performance;

- NERL should be required to maintain high quality service levels, akin to NR23 to date excluding service outages, avoiding unduly and unjustified degradation to capacity and flight efficiency service performance. Consistent with costs, we consider that any service performance outcomes should be fully justified and transparently evidenced linked to associated drivers and cost allowances;
- Airlines should not be expected to accept service deterioration as a given. We think NERL should be required to demonstrate why any claimed degradation is

¹The position reflects, in part, NR23 delivery underperformance, where decreased NR28 spend, benefits and resourcing efficiencies were previously implied but have not materialised, yet airlines are now facing increased investment ambition alongside potential service degradation. This amounts to airlines paying twice: first through delayed delivery, and again through lowered performance.

unavoidable, what mitigations are available, how the proposed service performance levels are calibrated to traffic forecasts and building block allowances, including options within and specifically – on a case-by-case basis – which parts of the network and flight process would be impacted.

8. Driving flight efficiency and environmental improvements;

- NERL is incentivised by the most appropriate environment KPI, or set of, to drive real-world environmental improvements, encourage active flight efficiency considerations in ATM practices and reflect the benefits of investments and operational developments including modern flight planning processes and tools as well as airspace changes.
- NERL focuses on enabling the sector to work together to achieve sustainability outcomes, driving flight efficiency improvements and enabling users to meet their net zero targets by reducing operators' flight emissions through operational improvements and enhanced resilience.
- Investments are prioritised in conjunction with users to determine the extent that environmental and sustainability projects specifically targeted to improve NERL's own environmental performance are appropriately prioritised based on clear cost and benefit details within the wider investment portfolio. If investment restrictions or limitations are encountered then the level of environmental benefit presented by directly investing in NERL's own estate should be considered in proportion to environmental benefits that could be achieved through alternative investments or actions by NERL that would deliver improvements to operators' emissions, such as improvements to flight efficiency, and the reduction to UK aviation's overall emissions.

9. Efficiently executing CapEx deployment;

- NERL commits to timely and efficient delivery of CapEx to ensure regulatory and airspace modernisation obligations are met, delivering the capabilities to enable the adoption of the required airspace structures, implementation of required ATM practices and capabilities, and whilst providing user acceptable capacity, resilience and flight efficiency performance for demand led traffic levels;
- NERL needs to establish a strategic investment roadmap that demonstrates how investments will deliver; the next generation ATM concepts; the required capabilities to deliver and operate modernised airspace structures to operators' requirements in terms of airspace concepts and service performance levels in demand led traffic levels; with delivery in lockstep with airspace changes and demand growth;
- NERL safeguards asset sustainment and technical resilience as foundational priorities for its CapEx delivery, to agreeable levels of resilience risk with clear cost implications of choices;
- NERL ensures that CapEx deployment for operational service enhancements demonstrably reduces OpEx and, or eases staffing pressures, improving cost efficiency and provides capacity and, or environmental benefits.

10. Demonstrating *affordability* for users, delivering essential outcomes at the lowest sustainable cost.

- The importance of *affordability* has been highlighted also by NERL’s consumer research and is a statutory duty on the CAA;
- NERL assures all costs are fully evidenced and justified, with transparent explanations of benefits and any cross-building block impacts or drivers fully calibrated including establishing charges implications of options and decisions;
- NERL ensures service quality targets are delivered in the most cost-efficient manner, with performance levels appropriately calibrated across the respective building block allowances;
- NERL upholds that costs are fully evidenced based and subject to rigorous bottom-up cost assessment, providing stakeholders with the required information to assess its proposals;
- NERL demonstrates *affordability* through a sustainable pricing profile that avoids shocks, and remains proportionate to service and cost levels;
- Some further non-exhaustive expectations of NERL include:
 - ensure cost allowances (for OpEx and CapEx) reflect an efficient operator and avoid blanket inflation indexation;
 - achieve fair returns without over-compensation through robust cost of capital (WACC) calculation;
 - explore leveraging joint purchasing to reduce unit costs and improve supply chain resilience where desirable and without presenting excessive dependencies and associated risks.

1.1.5. We comment below on the five priorities outlined by the CAA:

1.2. Safety

1.2.1. We understand that, according to the CAA, safety remains the primary statutory duty. The business plan should demonstrate safety management, embedded safety in operational and investment decisions, and continued compliance with safety requirements.

1.2.2. We fully support safety as the primary duty and the anchor for NR28.

1.2.3. At the same time, we consider that the NR28 framework must recognise evolving safety risks arising from:

- major technology transitions and prolonged legacy system reliance;
- airspace modernisation and new operating concepts.

This creates a period where legacy and next-generation systems will need to operate in parallel, where airspace design, ATC tools and controller training must mature in parallel for extended periods due to integration constraints and safety assurance requirements;

1.2.4. Moreover,

- the UK aviation system will face the emergence/integration of new user categories likely during NR28. These users introduce new types of interactions, uncertainties and potential conflict modes, all of which require new forms of hazard identification, modelling, mitigation and assurance.

1.2.5. We therefore request the Final Method Statement places explicit expectations on NERL to:

- explicitly identify and manage new risks from new airspace users, including through enhanced safety cases, dedicated risk assessments, operational mitigations and appropriately structured regulatory conditions;
- provide transparent disclosure of design trade-offs between safety integrity levels and cost;
- demonstrate how its safety management practices including risk assessment and mitigation action design benchmark to comparator organisations and other suppliers of National Critical Infrastructure;
- guarantee resilience through the initiatives outlined in section 1-4.

1.3. Users' Needs

- 1.3.1. The CAA emphasises robust consumer engagement and expects NERL to demonstrate how consumer priorities are reflected in the BP. We understand the CAA is reviewing NERL's consumer research to identify possible gaps.
- 1.3.2. We support the CAA's emphasis on users' priorities. We suggest that the Final Method Statement places a strong requirement on:
- transparency to stakeholders on the evidence NERL uses to justify any departure from user or consumer views, and to show how those views were taken into account in developing its NR28 business plan; and
 - an explicit "*golden thread*" linking consumer/user priorities with all of the building blocks of the NR28 business plan. We consider the "*understanding user needs*" priority should be applied more broadly than "*quality of service*" alone. In practice, user priorities must shape the entire NR28 business plan: CapEx and OpEx allowances, risk-sharing calibration, air navigation charges, resilience requirements, and the design of incentives.
- 1.3.3. We therefore ask that the Final Method Statement explicitly requires NERL to demonstrate how airline/user views have shaped its NR28 business plan across all building blocks, not only service quality.
- 1.3.4. We also request clarity from the CAA on how it will assess and balance potential divergence between consumer and airline views². This is essential to avoid consumer research being used to justify cost increases without robust evidence of value-for-money or performance outcomes. This is especially important because, in practice, users' requirements directly reflect and operationalise consumer requirements³:
- Airlines' operational needs — predictable capacity, reliable systems, resilience in abnormal operations — translate directly into fewer delays, cancellations, and disruptions for consumers.

² For example, we note that the Savanta research recommends real-time communications from NERL to customers; however, in practice, real-time communication with passengers must remain the responsibility of airlines, which hold the direct contractual relationship with passengers. Moreover, while the research highlights passenger concerns around technologies such as drones and AI, airlines are also focused on wider and material technological risks, including software assurance and system resilience, given their direct implications for safety, continuity of service and large-scale disruption. Consumer research should therefore be interpreted in a balanced manner alongside airline operational evidence.

³ easyJet's own passenger research, which shows that passengers generally have limited understanding of ATC or the specific causes of restrictions, and are primarily concerned with receiving clear, simple updates on expected departure and arrival times and what actions or entitlements apply.

- Users directly bear the costs of NERL’s charges which ultimately flow through to consumers through ticket prices. Ensuring NERL delivers efficient, value-for-money services is therefore inherently aligned with protecting consumer affordability.
- 1.3.5. Because users’ needs are thus the operational expression of consumer interests, NERL should not use consumer research to justify higher expenditure without clear evidence of efficiency, user-focus and *affordability*.

1.4. Resilience

- 1.4.1. The CAA proposes to strengthen resilience through review and improvement of incentives and to explore new metrics (including cancellation/knock-on delay measures) in response to the Halliwell Review. It invites views on objectives and incentive design.
- 1.4.2. We strongly support the CAA’s intent to prioritise technical and operational resilience for NR28 and to strengthen it by imposing meaningful financial incentives. We ask the CAA to ensure resilience is treated as a core output of the price control and that NERL’s Business Plan clearly articulates how proposed measures will prevent incidents, limit their operational impact, and improve recovery capability.
- 1.4.3. The 28 August 2023 failure and the subsequent review of the 2018 and 2021 FPRSA-R builds show that the NR28 framework shall investigate’’’ requirements for software assurance, independent validation and acceptance into service.
- 1.4.4. The level of assurance work carried out by NERL and its suppliers — illustrated in the Frequentis testing regime⁴ and the lack of detection of the defect — points to shortcomings in regression testing, code/statement coverage, and end-to-end validation. These gaps fall short of standards applied in other safety-critical domains such as avionics⁵.
- 1.4.5. We encourage the CAA to review NERL’s approach to technical and operational resilience, including assurance testing and system design, and consider there could be merit in benchmarking NERL’s approaches to these areas against other providers of National Critical Infrastructure and industries requiring comparable duties to safety.
- 1.4.6. This indicates that the current framework does not yet provide sufficient requirements, incentives or accountability to prevent or contain high-impact outages⁶. NR28 must therefore set clear, enforceable expectations for resilience, accountability, continuity and software assurance to protect passengers and maintain confidence in NERL’s national-infrastructure role.
- 1.4.7. In our view, NERL should be required to specify and apply more demanding assurance requirements under [CAP670](#), including the robustness criteria under SW01.46 (e.g., resilience to internal and external failures, segregation, and prevention of run-time exceptions).
- 1.4.8. NR28 will coincide with major technology changes and extended reliance on legacy NAS systems, increasing outage risk. We strongly suggest that the Final Method Statement

⁴ See Appendix 4 of “NATS Major Incident Investigation Final Report: Flight Plan Reception Suite Automated (FPRSA-R) Sub-system Incident 28th August 2023”, here: <https://www.caa.co.uk/publication/download/23340>

⁵ As a matter of fact, as highlighted in the investigation, despite FAT and SAT testing comparable to the 2018 build, the 2021 Frequentis build failed to detect a missing logic pathway that triggered an unhandled “exceptional exception”, even after processing more than 400,000 test flight plans.

⁶ we suggest in Section 3 that effective incentives and metrics should go beyond ATFM delay and fully reflect consumer harm, including cancellations and knock-on effects attributable to NERL.

explicitly addresses the quality and independence of software assurance and testing before deploying mission-critical systems, in light of the 28 August 2023 findings.

- 1.4.9. It is worth highlighting that while it is important to avoid a recurrence of disruption similar to that experienced during NR23, resilience improvements must be subject to appropriate scrutiny. We suggest that NERL should seek a balanced level of resilience that reflects cost efficiency and affordability. Accordingly, resilience-related costs should only be accepted where they are supported by clear justification, transparent evidence of benefit, and demonstrable value for airspace users, consistent with the assessment applied to all other cost categories.
- 1.4.10. To safeguard passengers and system continuity, the CAA should require NERL to significantly strengthen its approach. We suggest that NR28 mandates:
- A clear reporting to stakeholders on resilience vulnerabilities and mitigation plans.
 - A clear roadmap for mitigating known NAS weaknesses and risks from ageing systems.
 - Evidence of clear lessons learned from the NR28's incidents.
 - Transparent explanation of design trade-offs between safety integrity, resilience and cost.
 - Modern, robust assurance protocols covering functional hazard analysis, regression testing, code coverage and error-handling validation, aligned with other safety-critical industries.
 - System designs that fail gracefully, with back up provisions not replicating primary system failure points, and maintain partial service rather than collapsing from single-point anomalies.
 - Recognition that continuity requirements extend beyond safety alone⁷; a default “*stop all flying*” response is not acceptable when airlines bear the operational and financial consequences of outages.
 - Independent peer review of procurement specifications, architecture decisions and vendor testing methods.
 - Finally, we recommend exploring the feasibility and the trade-offs of strengthened vendor accountability solutions during NR28, including contractual obligations for defect detection, regression testing completeness, and software-assurance performance, supported by enforceable liability provisions. Also, the suppliers of mission-critical systems should face proportionate financial and operational consequences when their products fail to meet required assurance, resilience standards or result in delayed capex deliveries.
- 1.4.11. We are confident that these approaches — used successfully in other safety-critical domains — could have prevented the specific defect that triggered the August 2023 outage.
- 1.4.12. We finally ask clarification on how the CAA maintains independent software-safety assurance, given that we are unsure whether SARG's (Safety Assurance Regulatory Group) former software safety capability has been replaced, creating a potential gap in regulatory oversight.
- 1.4.13. We, commit to explore options and best practices to assist the CAA implementing these recommendations over the course of NR28.

1.5. Efficiency and Value-for-money

⁷ During Customer Engagement Round 1, NERL assured users that there should be no conflicts between safety and resilience' objectives.

- 1.5.1. The CAA identifies efficiency and value-for-money as a central NR28 priority and proposes to strengthen its approach through a more detailed business plan guidance to better inform NERL's planning.
- 1.5.2. The CAA also sets out an enhanced cost assessment approach drawing on a wider evidence base, including targeted bottom-up analysis, benchmarking and technical deep dives, and invites stakeholder feedback on how best to prioritise and implement these tools.
- 1.5.3. We support a clear policy focus on efficiency and cost discipline. Addressing NERL's high-cost base and ensuring charges remain efficient and affordable should be a primary regulatory objective, particularly in light of the scale, funding requirements, and delivery risks associated with NERL's ongoing technological transformation programmes, which have the potential to place upward pressure on charges if not tightly controlled.
- 1.5.4. NR23 experience demonstrated that value-for-money outcomes can be compromised when stakeholders receive incomplete or late evidence, when option appraisal is weak, or when major programmes shift materially without clear justification.
- 1.5.5. NR28 therefore requires a stronger discipline embedded from the outset in BP guidance and in the CAA's cost assessment plan — ensuring that cost allowances are earned through evidence and that investment is demonstrably linked to user-relevant outcomes (resilience, punctuality, safety, environmental performance) at an efficient cost.
- 1.5.6. We therefore invite the CAA to be more explicit and prescriptive about the evidential burden placed on NERL to demonstrate transparent value-for-money in its NR28 business plan and to explicitly include in the Final Method Statement and BP Guidance:
 - a requirement for NERL to produce formal efficiency assessments and cost/benefit evaluation against credible alternatives, including explicit assessment of CapEx vs OpEx options and different delivery approaches, so that stakeholders and the CAA can test whether the chosen solution presents the most efficient and optimal outcomes for consumers and users.
 - a commitment to define CapEx delivery incentives that go beyond those addressing engagement – see section 5;
 - a commitment to apply rigorous bottom-up scrutiny on material cost and investment items and cost items facing notable increases early in the process (and to specify early which areas are “high-priority” for high-quality evidence. If sufficient information to justify costs are not provided by NERL then the CAA should be prepared to disallow the particular cost allowance, going beyond reflecting any determination of the performance of NERL's BP under a potential BP Incentive adjustment which is proposed as a separate targeted mechanism and not designed to ensure that only evidenced, efficient cost elements are allowed. This should apply particularly to major technology and resilience programmes and material OpEx drivers;
 - a clear expectation that efficiency evidence must be shared consistently with stakeholders to support constructive engagement and avoid information asymmetry – including BP incentives;
 - a clear expectation that future charges must represent real value-for-money, consistent with what users and passengers would reasonably expect in competitive market dynamics, and supported by improved transparency and scrutiny of underlying assumptions.

- a clear definition of “*affordability*” to measure NR28’s business plan outcomes on this topic. We believe this statutory duty deserves full recognition and to be properly addressed in the Final Method Statement – see Section 1.

1.6.Supporting Airspace Modernisation

- 1.6.1. The UKDFT/CAA is establishing UKADS and expects to include a charge control in NR28, considering the appropriate cost recovery mechanism, risk/return, cost profile, and charge design.
- 1.6.2. We support the objectives of UKADS and the delivery of airspace modernisation benefits for users, communities and the environment. We are broadly supportive of moving to a determined-cost approach in NR28. However, we note that UKADS costs, outputs and delivery maturity are still evolving, and regulatory decisions should reflect this uncertainty.
- 1.6.3. In particular, we suggest that due concern should be given to costs driven by skills scarcity and a tight labour market for technical airspace roles, which may materially influence cost baselines and delivery capability over the NR28 period.
- 1.6.4. Consistent with the principles set out in the CAP3158 and CAP3159 consultations, transparency should be a guiding principle throughout UKADS delivery. This includes clarity on how priorities are set, how stakeholder input is reflected, how interdependencies are managed, and how efficiency and delivery performance will be monitored over time.
- 1.6.5. We believe that it would be appropriate for such transparency to also be upheld through active and open engagement with critical airspace users — such as major UK carriers — via the Advisory Board, ensuring that operational insight informs decision making.
- 1.6.6. To ensure UKADS delivers value and maintains stakeholder confidence, we advise that the NR28 framework requires that:
 - UKADS costs and outputs are clearly separated and identifiable, and subject to targeted, bottom-up efficiency scrutiny rather than being bundled within broader NERL cost envelopes.
 - Strong governance and incentives are put in place to ensure timely, cost-efficient delivery, including clear performance milestones, transparent reporting of progress, risks and dependencies, and effective escalation routes where delivery falls short. A clearly defined roadmap would be appropriate to measure progress on associated ATM capabilities (e.g. FDP Evolution / transformation), along with any other applicable obligations (UK and impacts from neighbouring ANSP policy timelines – SWIM / FRA etc).
 - Charge design is fair and transparent, avoiding inappropriate cross-subsidy from users who receive limited or no benefit from airspace modernisation, and clearly linking charges to demonstrable outcomes.
 - Stakeholders are given sufficient opportunity to assess efficiency and scope, with NR28 business-plan guidance and timetables structured to allow meaningful scrutiny of UKADS proposals and supporting evidence.
 - Delivery dependencies are clearly articulated, including the interaction between UKADS, UKACS and NERL’s wider investment programme, so users can understand the implications for airspace modernisation timelines and benefits realisation. We recommend applying the same approach to capacity growth and airspace changes, by clearly explaining the implications for service performance, airspace structure design, and

operational impacts. This should include consideration of ATM system capabilities and resourcing in relation to traffic forecasts, such as scenarios involving London airport expansion.

- 1.6.7. Above all, we recommend that the NR28 framework should reinforce that the primary objective of UKADS is the timely and efficient delivery of airspace modernisation benefits, including decarbonisation, network performance and economic growth, while avoiding unnecessary delay, duplication or cost escalation.

2. Traffic Forecasts

- 2.1.1. The CAA is minded to continue using Eurocontrol STATFOR base case for UK en route and London Approach; for Oceanic, CAA is minded to adopt NERL's forecast applying STATFOR growth rates to historic oceanic flights.
- 2.1.2. We understand the CAA remains open to alternative approaches supported by robust evidence.
- 2.1.3. Firstly, we would remind the CAA that the ICAO EURNAT EFFG NAT TRAFFIC FORECAST FOR 2025-2029 ⁸has been updated and should also be considered.
- 2.1.4.
- 2.1.5. Traffic-forecast assumptions play a central role in determining prices, operational resources and performance targets. Careful consideration is needed of how different traffic scenarios affect operating expenditure and staffing needs, recognising that free-route airspace and investments are expected to reduce controller workload through lower communication, monitoring and coordination demands supported by controller toolset and system developments.
- 2.1.6. We support the CAA's use of STATFOR for UK en route and London Approach because it is independent and transparent. This independence is crucial to avoid conflicts of interest where the regulated entity sets a key price-control input.
- 2.1.7. Independence also provides confidence to stakeholders and avoids placing unnecessary verification burdens on the CAA, allowing regulatory focus to remain on other critical areas such as cost efficiency, incentives and resilience.
- 2.1.8. We also caution that an overly conservative forecast risks under-preparation from an operational resourcing perspective, leading to capacity pressure and increased delays if traffic exceeds expectations. This should not be interpreted as a justification for automatic cost increases: any resourcing or investment impacts must remain fully evidenced, transparently explained, and subject to scrutiny through the Business Plan process.
- 2.1.9. At the same time, we note that airline forward-looking intelligence — reflecting schedules, fleet plans and commercial demand signals — tends to indicate a more optimistic outlook than STATFOR base case.
- 2.1.10. A forecast that is not overly conservative also supports better operational preparedness, reducing the risk of capacity shortfalls, delays and system strain should traffic materialise above expectations.

⁸ <https://www.icao.int/EURNAT/EUR-NAT-DOCS?fid=3474#block-icao-page-title>

- 2.1.11. Against this backdrop, we consider the STATFOR base case to represent a pragmatic and proportionate midpoint that balances independence, realism and resilience, while providing an appropriate anchor for subsequent cost and performance assessment under NR28.
- 2.1.12. We request the CAA adopt a more robust approach than reliance on NERL's internal projection framework. Even if a fully independent Oceanic forecast is not proportionate to commission, the CAA should:
- require disclosure of NERL's forecast methodology, accuracy back-tests, and sensitivity to plausible scenarios; and
 - consider alternative sources such as the ICAO EURNAT EFFG NAT TRAFFIC FORECAST FOR 2025-2029 and others (where available) and triangulation against transatlantic demand indicators.

3. Service Quality

3.1. Punctuality and Resilience Metrics

- 3.1.1. CAA considers if NERL's current capacity metrics (C1–C4) should be updated with changes to thresholds/bonus/penalty settings/deadbands, and explore new incentives to address resilience or capture broader outcomes, including cancellations/knock-on delay.
- 3.1.2. Metrics should capture what matters to passengers and airlines, including peak-period effects and major outage impacts, not only average delay measures reflected over extended measurement periods and at highly aggregated levels.
- 3.1.3. We agree that NERL's existing performance targets and regulatory arrangements are not structured to appropriately capture or mitigate the impacts of large-scale system outages, with the stress testing of the existing incentive framework presented by the August 2023 outage and 2025 radar outage demonstrating weaknesses in the current framework of metrics and their associated incentives. These events generate substantial financial and operational consequences for airports, airlines and passengers, and should trigger clear accountability for NERL, with the incentive driving appropriate outcomes to be delivered by NERL. With two outages of significant magnitude within the NR23 period to date, incentives do not appear to form an appropriate or sufficient mechanism to ensure NERL provides an acceptable level of service continuity.
- 3.1.4. We support the CAA's review of service quality metrics and assessing the level of incentive presented in the framework for the appropriate provision of continuity of service and resilience through the development of an incentive framework for NERL that is coherent, proportionate, and clearly aligned with the delivery of agreed regulatory outcomes.
- 3.1.5. Moreover, we recommend that:
- existing incentives are reviewed for their strengths and weaknesses and determine if adjustments would enable them to provide an appropriate mechanism to encourage the desired behaviours;
 - underlying material drivers of NERL's service performance are identified and considered if appropriate for more targeted delay metrics to be designed, this could include reviewing; the effect of elongated and aggregated measurements; the proportion of

flights encountering delay and the extent of associated delays; extent of cancellations and knock-on delays; network effects, the management thereof and reconciliation including reporting; sectorised performance levels; London Approach performance levels; accuracy of delay coding; mitigating the effect of weather and recovery from weather effects; as initial consideration and anticipation of further discussion with NERL during Constructive Engagement;

- any new incentives are calibrated alongside existing incentives, taking account of the level of risk being addressed and its effects on the cost of capital with resultant effect on the level of charges;
- incentives are structured to reflect the scale and materiality of the issues they are intended to address, taking proper account of approved investment programmes and cost allowances⁹;
- incentives are balanced with the need to maintain NERL's ongoing financeability. Incentives should be designed as part of a balanced package that promotes performance improvement without introducing undue financial volatility or undermining financeability;
- the CAA remains actively involved throughout the end-to-end process of incentive and target development, including design, implementation, monitoring, and review. This engagement supports the setting of efficient cost allowances and service expectations, while providing independent challenge to ensure that targets are sufficiently demanding to drive improvement, yet achievable within NERL's operational and financial capacity.

3.1.6. We finally caution against NERL's considerations on NR28 punctuality as contained in its CE Round 1 Prospectus: we suggest that service performance should not be allowed to unduly deteriorate below the levels delivered during NR23 (outage events aside) without robust justification, a case-by-case explanation, and explicit trade-off assessment. Instead, NERL should be held accountable where late or under-delivered investment drives avoidable performance degradation, and any claim of deterioration must be supported by clear, quantified evidence, a demonstration of why it is unavoidable, and a time-bound mitigation plan.

3.1.7. We therefore kindly ask the CAA to consider:

- an explicit NR28 objective to assess the effectiveness of existing incentives and how these can be further enhanced including but not limited to potential for addressing resilience, cancellations and knock-on schedule effects;
- transparency on how deadbands and thresholds influence risk/returns;
- an explicit requirement for NERL to present options (and cost/outcome trade-offs) and mitigation plans, so the CAA and users can assess whether performance outcomes justify costs;
- a commitment to avoid a situation where users effectively "pay twice" for delayed CapEx delivery and deferred benefits realisation.

3.2. Environmental Metrics

⁹ In particular, service quality measures should be proportionate to agreed traffic assumptions and OpEx and CapEx and expected benefits in terms of capacity, environment, productivity/cost efficiency, and subject to detailed CAA scrutiny to ensure they are both realistic and effective in driving performance.

- 3.2.1. The CAA notes the traditional 3Di metric is under review; NERL proposes E1–E7 metrics and favours E2 Tactical Flight Emissions (TFE), but CAA has not yet formed a view. CAA proposes environmental objectives focused on value-for-money investment and transparent incentives, inviting stakeholder feedback.
- 3.2.2. Sustainability is a core element of our strategy and of the aviation sector’s collective commitment to meeting climate change objectives. Achieving meaningful environmental outcomes will require coordinated action across the system, with a strong focus on enabling airspace users to meet their net-zero commitments through reductions in emissions and waste.
- 3.2.3. Operational improvements, enhanced resilience, and more efficient flight operations all have an important role to play. In this regard, the timely delivery of airspace modernisation — particularly in lower airspace and terminal manoeuvring areas — is a critical enabler, alongside NERL’s actions to support improvements in flight efficiency.
- 3.2.4. Improving flight path efficiency remains one of the most effective levers available to reduce aviation emissions and deliver more sustainable operations. Continued regulatory focus on these outcomes is therefore essential to ensure environmental benefits are realised alongside operational and cost efficiency.
- 3.2.5. We support the CAA’s objective of improving environmental incentives and agree that 3Di requires assessment for evolution as a minimum. We welcome exploration of more transparent CO₂-linked measures, including TFE.
- 3.2.6. However, we suggest that:
 - environmental incentives must be auditable, transparent, and operationally meaningful and representative;
 - metrics should focus on what is under NERL’s direct control and enhance transparency for users, this should include benefits derived from investment and airspace modernisation;
 - metrics should align with real operational outcomes (route efficiency, fuel burn, emissions) and not be overly model-driven or opaque; and
 - incentives must be calibrated so they do not create perverse trade-offs with resilience and punctuality.
- 3.2.7. We recommend that the Final Method Statement requires NERL to:
 - provide a detailed assessment of the current 3Di metric including; current issues and options for evolution supported by an impact assessment documenting the aforementioned points in relation to NR23 performance data;
 - provide detailed methodology, data lineage, and audit arrangements for any proposed metrics (including TFE);
 - explain how any data collection and processing costs are justified, proportionate and compare to current requirements; and
 - demonstrate how environmental metrics align with airspace modernisation deliverables and tangible benefits to consumers.

4. Cost Assessment

- 4.1.1. The CAA plans to strengthen information gathering and BP guidance, widen evidence base (benchmarking and bottom-up analysis), and develop CapEx assessment/incentives. Invites feedback on priority areas for benchmarking/deep dives.
- 4.1.2. We believe that there should be a stronger emphasis on embedding efficient operating expenditure within the price-control arrangements and on creating incentives that drive incremental efficiency gains by NERL. Such an approach would help replicate the pressures and outcomes associated with effective competition.
- 4.1.3. In NR23, the CAA's cost assessment was largely anchored to NERL's Business Plan and the 2022 baseline. In our view, a broader and earlier review of efficient costs — particularly for CapEx and OpEx — would have been helpful. Some late changes and limited clarity in investment plans, together with inconclusive OpEx findings (including around pay growth), made stakeholder scrutiny difficult.
- 4.1.4. We thus support enhanced bottom-up cost assessment and a broader evidence base. This is essential given the NR23 experience where CapEx and OpEx scrutiny was late and constrained by limited transparency. This is in line with the CAA's lessons learned findings in CAP3000.
- 4.1.5. We have significant concerns about reliance on top-down benchmarking. Benchmarking must be used carefully, transparently, be well defined for its objective and methodology, and only where comparability is robust and stakeholders can interrogate underlying data and adjustments. Benchmarking methodology must be carefully designed and take account of local variances with clearly defined assumptions and adjustments. There should be no assumption that peer ANSPs are effectively regulated or provide a reference point of efficiently delivered outputs.
- 4.1.6. We reiterate our position that the CAA should be prepared to disallow costs that have not been robustly and transparently evidenced including their associated benefits and effects across NERL's building blocks. This is beyond the application of any Business Plan Incentive and is a direct cost allowance exclusion from the cost base. We believe this would support encouraging and ensuring NERL provides sufficient information and has made detailed cost-benefit case assessments of its cost proposals, along with critically supporting that NERL's costs are efficient.
- 4.1.7. In line with section 1-5, we recommend that the Final Method Statement includes:
 - a requirement that NERL provides consistent, transparent data to stakeholders as well as the CAA and information asymmetry between the regulated entity, regulator and customers should be proactively addressed and mitigated against;
 - a requirement for "optioneering" and cost/benefit evaluation for material programmes and cost elements as well as items of notable cost increases, regardless of materiality, in OpEx and CapEx;
 - a structured approach to annual monitoring of NERL's cost base during NR28 to better reveal the efficient cost and delivery point achievable by the regulated entity to assist in the expansion of the evidence base ahead of establishing subsequent price controls;
 - early deep dives on critical OpEx drivers (staff costs including workforce planning, staff pay and reward including pensions) and capex programmes;
 - a commitment to review the relationship and effect of inflation, under either a CPI or CPIH indexed approach, of the elements of NERL's cost base and the appropriateness of the existing mechanisms to account for inflation effects. Establishing the extent of how NERL's costs, including the RAB and staff pay, are affected by inflationary effects or in fact

the design and presence of regulatory mechanisms should support the design and adoption of any appropriate allowance and, or mechanism design; and

- a commitment to review NERL's cost allocation between its regulated and non-regulated activities.

5. CapEx Delivery

- 5.1.1. The CAA proposes to build on NR23 capex incentive tools (Independent Reviewer, ex-post efficiency review, CapEx engagement incentive) and consider enhancements including ex ante frameworks and delivery/benefit incentives.
- 5.1.2. We welcome the CAA's focus on strengthening CapEx incentives.
- 5.1.3. A further area that may benefit from consideration is the timing mismatch that can arise where investment is added to the RAB as costs are incurred, while the resulting benefits to consumers are realised later. This concerning as current consumers are effectively financing future consumers benefits.
- 5.1.4. We understand that, under current arrangements, a return via the WACC is earned from the point CapEx is recognised, even where delivery or benefit realisation occurs further in the future.
- 5.1.5. We fully recognise the importance of NERL earning a fair and reasonable return on efficient investment. Our aim is to support an approach that balances this appropriately with users' interests, by ensuring the RAB and incentive framework encourages efficient, timely and user-focused delivery.
- 5.1.6. We consider the CAA should assess whether investments are delivering for the consumer, be it within the same or subsequent price controls, or whether they come at an excessive cost by failing to deliver expected returns. This reflects the energy and water regulatory regimes where the commitments related to capital projects are reflected in the setting of outcomes in subsequent price controls. For example, in the PR24 price control, Ofwat's setting of the performance commitment targets retained "memory" in relation to previously funded investments: *"We also need to ensure that customers are not paying twice for performance improvements. For example, we need to avoid providing allowances now for improvements funded in the past or allowing companies to receive outperformance payments in the 2025-30 period for improvements funded in our efficient PR24 expenditure allowances. This is why our starting assumption is that companies will meet their PR19 PCLs, which we will only move away from if there is compelling evidence to support a different approach."*
- 5.1.7. By way of example, the revised timeline for the FDP replacement programmes (extending to 2035+) or the NATS Integrated Business Services (NIBS) modernisation programme (developed in-house and capitalised into the RAB without clear justification on the choice vs industry-standard external service solutions), illustrate why it may be helpful to consider how incentives can better align financing, delivery and benefit realisation.
- 5.1.8. More generally, the NR28 proposals point to a materially larger investment and resourcing programme, including a c.25% increase in CapEx and a doubling of staffing requirements compared with NR23. This represents a notable shift from the expectations set during NR23, when NERL indicated that the delivery of common systems would enable staff reductions from

around 2028, with further efficiency gains from automation from 2030 as well as service performance benefits to be realised within NR23.

- 5.1.9. While we recognise that complex programmes evolve over time, these changes highlight the importance of a framework that strengthens incentives for timely and effective delivery, improves transparency around the options considered when plans change, and ensures clear accountability where anticipated efficiencies are not realised. In our view, users should not be expected to bear higher costs arising from delays, re-scoping or under-delivery of CapEx programmes – see also section 1 and 3.
- 5.1.10. We are concerned at the CAA’s first stated objective for its environmental incentives, with the CAA minded to incentivise NERL to invest flexibly in projects that deliver environmental benefits. We caution incentivising undesirable levels of flexibility into NERL’s NR28 capex plan as we anticipate the need for set requirements to be delivered in NR28 to meet resilience needs, those arising from wider policy requirements, such as airspace modernisation, and NERL’s longstanding, ongoing pursuit of technological transformation most notably of its critical Flight Data Processors and ATCO toolsets under the Common Platform and DP En Route / iTEC umbrella of projects.
- 5.1.11. We thus propose the CAA to explore:
- stronger *ex-ante* assessments (robust business case and cost justification before allowance);
 - stronger efficiency and delivery incentives;
 - consideration for addressing deferred benefits realisation and rollover of investment to subsequent regulatory periods;
 - effective clawback for undelivered spend;
 - delivery milestone/benefit incentives with meaningful consequences for slippage; and
 - explicit requirements for NERL to provide benefit realisation plans, timelines, and consumer outcomes for each major programme; and,
 - consideration of enhancements to NERL’s CapEx reporting and customer engagement requirements.
- 5.1.12. In that context, we recommend that the Final Method Statement commits to defining CapEx delivery incentives early in NR28 to ensure an appropriate baseline of information and assessment to support prioritisation is in place.
- 5.1.13. We finally maintain a favourable position towards the concept of the CapEx Engagement Incentive. We suggest this should be focused on improving transparency and the quality of information provided by NERL, including:
- user benefits (i.e. in terms of expected enhancement of quantifiable and non-quantifiable metrics such as resilience, delays, sustainability, safety, flight efficiency or environmental outcomes);
 - efficiency gains (i.e. the project is reconciled with productivity and staffing requirements and anticipated savings in operational costs);
 - optioneering (i.e. with details on projected quantified costs and quality enhancements for each of the options);
 - expected timeline; and,

- details of trade-offs with effects to other elements of NERL's business such as opex requirements or service performance implications

It is finally important to reflect the lessons from NR23, where information was fragmented across multiple forums. Prioritisation of investment proposals must occur within the constructive engagement process itself for the NR28 period, not be deferred to the SIP, TCAB, OPA or AFEP, to ensure clarity, cohesiveness of the plan and an efficient decision-making process. This is a consideration we view as appropriate to be cognisant of across all elements of discussion and development for NR28.

6. Financing Framework, RAB and Simplifications

- 6.1.1. The CAA proposes to retain the RAB approach and building blocks, simplify PCM calculations (working capital focused on TRS, remove backlog depreciation, CSU basis, remove RPI/CPI wedge), and move from RPI to CPI/CPIH for RAB indexation. CAA seeks views on index choice and simplifications.
- 6.1.2. We do not support an automatic, indiscriminate indexation of the RAB to inflation without safeguards. Periods of unusually high inflation risk generating windfall gains and excessive returns, despite inflation risk already being captured within the allowed WACC.
- 6.1.3. In our view, any real capital erosion arising from inflation is part of normal business risk and should not be separately compensated through RAB uplift.
- 6.1.4. If indexation is nevertheless considered appropriate to be applied, we would support moving from RPI to CPI/CPIH. RPI is outdated, long been unsupported as a measure of national inflation and its use is inconsistent with broader regulatory practice.
- 6.1.5. We encourage the CAA to consider alternative assessment and approaches to inflation indexation including whether a notional inflation assumption could reduce forecasting bias and windfall outcomes in volatile inflationary environments¹⁰.
- 6.1.6. The proposed PCM simplifications appear reasonable but require further assessment. We support the intent to remove immaterial complexity and improve transparency. We ask the CAA to ensure these simplifications do not reduce scrutiny of material cost drivers or risk-sharing flows.
- 6.1.7. We support further clarification being provided as to the CAA's considerations on "unforeseen and significant" changes to the elements within the Eurocontrol Framework identified by the CAA.
- 6.1.8. Finally, we support the proposed presentation of the RAB in the form of a spreadsheet provided sufficient information is presented to allow clear tracking of the RAB, sufficient transparency and detail associated calculations.

¹⁰ We find more useful to assume a notional inflation rate between 2% (which represents UK Central Bank's inflation target) as the most realistic and reliable prediction of where the inflation rate will likely be in the future. That limits the possibility to account for windfall inflation, which leads to instability of pricing and does not avoid the compounding effect on the RAB that leads to excessive profits.

7. Regulatory Depreciation

- 7.1.1. CAA's initial view is to maintain the NR23 approach including 15-year straight-line depreciation for new assets.
- 7.1.2. We question whether a uniform 15-year life across all new assets remains appropriate, especially given the mix of software, systems, radar, and property assets. A blanket approach risks mis-aligning cost recovery with economic lives and can distort incentives.
- 7.1.3. We recommend that the CAA provides:
- an asset-class breakdown of the RAB and depreciation assumptions; and
 - evidence supporting useful life assumptions by asset category with account for planned investments during NR28.

8. WACC Determination

- 8.1.1. The CAA expects to update its assessment of NERL's WACC for NR28, considers it likely higher than NR23, and is open to refinements based on market evidence, UKRN guidance, and stakeholder input.
- 8.1.2. We do not believe the NR23 WACC methodology should be retained without review. The current framework includes several layers of protection for NERL against volume risk, which need to be assessed if they are appropriately calibrated and ensure sufficient reflection in the representation of risk faced by NERL. In particular, the business risk reflected in NERL's beta has likely been overstated given:
- the existence of broad traffic and inflation risk sharing mechanisms providing protection against notable volume and inflationary risks;
 - the potential excess risk by comparing to airports with higher systematic risk owing to the inclusion of smaller international airports in the airport comparator groups (Fraport, ADP, Aena);
 - consistency issues with the inclusion of ENAV; and,
 - the monopoly/essential infrastructure characteristics of NERL.
- 8.1.3. The cumulative effect of these mechanisms has been to create greater upside potential than downside risk for NERL, an imbalance that ought to be corrected for NR28.
- 8.1.4. We expect the CAA to undertake a fundamental recalibration of these risks and to:
- convene technical forums and consult stakeholder views early (ahead of the NR28 BP submission) to review WACC methodology;
 - reassess comparator sets and weighting methods for beta estimation;
 - consider whether risk-sharing and settlement mechanisms should reduce systematic risk reflected in the asset beta; and
 - ensure WACC does not embed windfall returns where risk is already mitigated through regulation.

9. Risk Sharing Mechanisms

- 9.1.1. The CAA expects to retain Traffic Risk Sharing (TRS) but will consider design and calibration options, especially for future market shocks.
- 9.1.2. We support risk sharing in principle and the CAA's intentions around calibration. We believe the TRS in its current form has placed an unjustified, excessive and insufficiently calibrated burden on users and ultimately consumers. We believe it is important to highlight that fully insulating NERL from all traffic-related risks would be inconsistent with the risk profile of a regulated business.
- 9.1.3. The asymmetric nature of traffic shocks, which tend to be sharp and short-term on the downside and gradual on the upside, results in NERL receiving disproportionate downside protection. We thus ask the CAA to evaluate the TRS with a focus on *affordability* and balanced risk allocation, particularly in exceptional circumstances.
- 9.1.4. The approach to a TRS mechanism for Oceanic services was not supported during NR23 due to the considered imbalance between the considered level of consumer benefit against the additional regulatory complexity that would be introduced. We are open to reviewing the case for the introduction of a mechanism, as part of a wider review of the approach to Oceanic traffic forecasting and risk, but this requires assessment for its benefits and impacts to the proportionality and complexity of regulation.
- 9.1.5. We also recommend that:
 - the CAA sense-checks NERL's ability to flex costs with traffic variations and calibrate deadbands/shares accordingly; such assessment should be supported by transparent, traffic-based scenario analysis as part of NERL's Business Plan engagement;
 - the CAA ensures any efficiency gains under cost-risk sharing are fairly split and do not incentivise cost padding.;
 - the CAA remains mindful of how traffic risks are already reflected in market-based estimates of risk, including asset beta assumptions in the WACC calculations – see section 8;
 - the CAA provides differing WACC values to reflect any adjustments to risk-sharing mechanisms to allow appropriate and transparent assessment by stakeholders if adjustments are in user and consumers best interests.

10. Pension Costs

- 10.1.1. The CAA expects to maintain its approach but review PCA levels and consider DC benchmarking; seeking stakeholder views on regulatory policy statement priorities.
- 10.1.2. We support the CAA reviewing PCA levels and benchmarking DC scheme contribution rates, and support the CAA gathering supporting evidence in assessment of pension cost allowances.
- 10.1.3. Consistent with our considerations for NR23, based on the evidence available during the round, we continue to support the introduction of a new defined contribution scheme for new joiners based on a market-reflective, efficient contribution rate. We are open to review the options and considerations for implementing such a scheme with NERL and the CAA for NR28.
- 10.1.4. We ask the CAA to require NERL to demonstrate:

- why PCA is required at proposed levels in NR28;
- how PCA compares to DB costs;
- supports retention objectives; and
- update its assessment and evidence on the efficient cost levels of the DC scheme and consider adopting a new DC scheme allowance for new staff from the start of the NR28 period.

11. Business Plan Guidance and Incentive (BPI)

- 11.1.1. The CAA proposes to introduce a symmetrical business plan incentive (± 10 bps RORE per year) to encourage a complete, high-quality BP and third-party assurance; seeks feedback on design and calibration.
- 11.1.2. We recognise the need to improve NERL’s BP quality, given NR23 experience. However, we do not support rewarding NERL for meeting regulatory obligations. It is inappropriate for a regulated entity to earn incremental income for delivering an activity that is fundamental and expected within the context of a price control. We therefore recommend that any BP incentive should be penalty-only or, at minimum, set with stringent evidence requirements.
- 11.1.3. We are concerned that the proposed calibration is unclear and unbalanced, both in the scale of the bonus and the absence of transparent assessment criteria, priority areas, and weightings. If a quality-based incentive is retained, a “low-quality” outcome should result in an automatic penalty; discretionary penalties would undermine the incentive’s credibility and effectiveness.
- 11.1.4. We are concerned that the current outline of the incentive:
- presents an unclear and imbalanced calibration. A “low-quality” scoring should trigger an automatic penalty, making it discretionary would lead to protracted discussions and would compromise the incentive’s effectiveness;
 - is unclear as to what the priorities areas are and whether/what weighting would be applied to them;
 - is at odds with the CAA’s own practice for a penalty-only incentive for NERL’s capex engagement. We draw the CAA’s attention to its own statements in the CAA’s Initial Proposals for NR23 that *“the incentive should remain “penalty only” to avoid NERL earning incremental income for what should be a normal and expected activity”*¹¹;
 - presents an entirely inappropriate the level of the bonus and needs to be assessed for its strength relative to other incentives;
- 11.1.5. We therefore request any BP incentive should be penalty-only and set a consistent, very high bar with stringent evidence requirements. A penalty-only framework for quality-related criteria is in line with the precedent set by both Ofgem’s RIIO-3 BPI Stage A requirements¹².
- 11.1.6. We also recommend that:
- should a quality-related incentive proceed, the CAA defines in advance the priority areas requiring *“very high quality”* evidence, supported by transparent and objective assessment criteria;

¹¹ CAP2394b, Appendix G, paragraph G24

¹² RIIO-3 Business Plan Guidance

- the BP guidance requires joined-up narrative across OpEx, CapEx, traffic, service and outcomes (“golden-thread”);
- independent assurance and transparency to stakeholders be mandatory for key building blocks;
- the CAA require NERL to set out its Business Plan utilising CPI and CPIH to provide reflection of its plan under consideration of adoption of the respective inflation measures;
- the CAA provide a WACC estimate for both CPI and CPIH indexed cost of capital allowance to be adopted by NERL in its Business Plan to remove contention between NERL and stakeholders on the level of WACC that should be incorporated into NERL’s Business Plan;
- the BP sets out traffic related scenarios, with calibrated and detailed adjustments to building blocks and any changes to key elements, with optioneering to enable collaborative engagement with customers and in support of enabling transparent assessment.

12. Regulatory Framework for New Users

12.1.1. The CAA considers it too early to incorporate enduring new user charging models.

12.1.2. We agree that new user charging is not yet mature, but we recommend that the CAA ensures:

- dedicated charging arrangements are fair, efficient, and designed/monitored by the CAA; and
- costs for new users are not inappropriately socialised to existing airline users and the new charging mechanism reflects the User Pays Principle.

13. NR28 Customer Engagement and Timetable

13.1.1. CAA retains the timetable with multiple CE rounds and a BP submission in Nov 2026 (CAP 3174); The CAA also considers six-year control period options (subject to Eurocontrol’s assessment); It finally intends to use initial proposals as interim arrangements.

13.1.2. We reiterate our concerns that the proposed timeline risks interim pricing based on incomplete evidence, as the final decision would occur after the start of NR28. We acknowledge the objective of reducing overlap with H8, but stress that this must not compromise regulatory quality or the ability to address structural issues (incentives, RAB rules, TRS calibration).

13.1.3. We highlight the following concerns:

- The ambitious timelines set by the CAA, which have resulted in Round 1 of constructive engagement (CE) commencing before the CAA’s final approach was confirmed, constrain the scope for meaningful, in-depth engagement;
- The consultation on the Draft Method Statement is now running concurrently with other major regulatory and industry processes, specifically:
 - i. Constructive Engagement (CE) Round 1, which has happened in parallel and requires notable preparation to enable to appropriate scrutiny of NERL’s early

positions and proposals and to provide considered assessments and contributions;

- ii. the Airspace Modernisation and UK Airspace Design Service (UKADS) consultations, both of which imposed substantial analytical and engagement demands on stakeholders; and
- iii. wider regulatory developments including airport expansion process and regulatory engagements.

This simultaneous activity compresses stakeholder bandwidth and materially affects the time available to form meaningful and constructive positions.

- 13.1.4. We are also concerned that any unwarranted interim arrangements based on Initial Proposals would expose current users to the risk of funding elevated charges for the benefit of the regulated entity, with any subsequent price reductions accruing to future users. This would be inequitable and inconsistent with the principle of consumer protection.
- 13.1.5. We wish to remind the CAA that the interim arrangements applied in NR23 were driven by exceptional circumstances arising from the COVID-19 pandemic. We believe the current context is not comparable and does not justify the use of a holding cap or similar interim approach.
- 13.1.6. It is currently unclear as to the reasons for the delay to the H8 and NR28 timetables, what would form reasonable endeavours to mitigate and manage such scenarios in future and the likelihood of such occurrences unfolding and lacking sufficient mitigation options for the delivery of future HAL and NERL price control reviews to warrant reducing the overlap of the respective price control review processes. As a result of lacking this critical information and assessment, it is currently impossible for reasoned consideration as to the extent and actual nature of the benefits that would be ascertained with any level of certainty from reducing the overlaps. Is the CAA fundamentally stating that the timetables set out in CAP3000 fundamentally do not represent an achievable representation of sequencing and time allowance to manage overlapping price control reviews under any circumstances?
- 13.1.7. We wish to highlight we find insufficient details in the CAA's assessment of the complexities associated to extending NERL's price control to form a 6-year regulatory period, and in fact of any of its 4 proposed options. Current assessment relies on the initial considerations of stakeholders, with the CAA furthering the review with reference to the Eurocontrol Principles and considering that they may provide a blocker to furthering the option of a 6-year price control. We kindly request that the CAA sets out a detailed assessment of the options and its considerations, including the extent to which it must adhere to and or adopt the Eurocontrol Principles in full or part regarding the length of the regulatory period as well as across all other elements of the Eurocontrol Principles and the CAA's discharge of its duties in setting NERL's licence.
- 13.1.8. Referencing to airlines responses to CAP3174, we reiterate that:
 - airlines could support a six-year period as a singular occurrence specifically to enable the increased separation and reduced overlap of the NERL and HAL price control review processes, only if robust safeguards for users are considered, in our initial assessment these should include but are unlikely to be limited to mechanisms to prevent price shocks and maintain stability;

- alternative approaches may present benefits and could be preferable, and we kindly request the CAA set out substantial and evidence backed considerations of the benefits, weaknesses and risks of the considered differing approaches prior to making its final decision; and,
- We recommend the CAA to set out clear off ramps and contingencies for managing delays in the NR28 process; our request for the CAA would be to act as a clear escalation point and enforcement process with timely action to address late or incomplete information provision or response from NERL to airlines requests and mediate points of unresolved disagreement between NERL and airlines.

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