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Iberia response to CAA Draft Decision on the regulatory treatment of early costs of capacity expansion at Heathrow airport (CAP3238)

Iberia welcomes the opportunity to respond to the Civil Aviation Authority's ("CAA") Draft Decision on the regulatory treatment of early costs associated with capacity expansion at Heathrow Airport ("the Draft Decision").

Iberia supports the responses submitted by our sister airlines Aer Lingus, British Airways and Vueling, and by our parent company, International Airlines Group ("IAG"). This submission provides Iberia's perspective as a network carrier operating short-haul services between Heathrow and our hub Madrid airport, which play a critical feeder role into Iberia's long-haul network.

Iberia firmly opposes the Draft Decision to allow Heathrow Airport Limited ("HAL") to recover £320 million of early expansion costs from airlines and passengers during 2025-26, prior to the granting of a Development Consent Order ("DCO"). In Iberia's view, the Draft Decision represents a significant departure from established regulatory principles, weakens consumer protection, and risks entrenching inappropriate risk allocation at a critical early stage of a highly uncertain and potentially very costly project.

This response should be read alongside submissions made by other airlines and by our parent company, IAG. Iberia supports those submissions and does not repeat all arguments made therein. Instead, this response focuses on the key issues arising from the Draft Decision from Iberia's perspective as a network carrier operating services exposed to Heathrow charges and long-term regulatory risk.

Iberia would welcome the opportunity to engage further with the CAA on these issues.

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1. Recovery of early expansion costs prior to DCO approval is wrong in principle

Iberia's position remains that development and planning costs incurred before the granting of a DCO should remain fully at the promoter's risk. At this stage, the Heathrow expansion project is inherently uncertain: it has not been consented, its scope and delivery model are unresolved, and there is no assurance that it will proceed at all.

Allowing such costs to be recovered from consumers before development consent is secured represents a fundamental shift in risk away from the project sponsor and onto passengers. That shift is not justified by the evidence presented and is inconsistent with sound regulatory practice.

An at-risk approach to early costs provides appropriate incentives for efficiency and discipline during the development phase, while ensuring that consumers are protected from speculative expenditure. Under such a framework, efficiently incurred costs can be assessed and confirmed for recovery once a DCO has been granted, with financing costs preserved. This strikes a proportionate balance between enabling mobilisation and safeguarding consumer interests.

The Draft Decision is also inconsistent with the CAA's treatment of other UK airports. Gatwick Airport Limited secured development consent for its £2.2 billion Northern Runway project in 2025 without the use of a comparable regulatory pre-funding mechanism. The CAA has not explained why Heathrow should be treated differently, or why Heathrow consumers should be required to underwrite speculative development risk where this has not been considered necessary elsewhere. In addition, the £320 million now proposed for recovery builds on over £500 million of expansion-related expenditure incurred by HAL prior to 2020 that remains funded by consumers through the RAB. The CAA has not established what enduring benefits were delivered by that earlier expenditure or how it has reduced the scope or cost of the current programme, yet consumers are again being asked to fund a further tranche of speculative costs without a clear account of what previous spending achieved.

The CAA's concern that HAL may otherwise slow or defer preparatory activity is not supported by observed behaviour. HAL has already incurred material expansion-related costs without any guarantee of recovery, demonstrating that early progress does not depend on pre-funding by consumers. The Draft Decision therefore appears to address a theoretical risk rather than a demonstrated problem.

Iberia is also concerned that consumers are already funding substantial historic expansion-related expenditure through the regulated asset base, without a clear explanation of the outputs or enduring benefits delivered. Permitting a further tranche of speculative pre-consent costs exacerbates this concern and risks undermining confidence in the regulatory framework.

2. The 2025–26 decision must not establish expectations for future expenditure

The Draft Decision states that the proposed treatment of 2025–26 costs should not be regarded as setting a precedent. Iberia considers it essential that this assurance is explicitly and unequivocally upheld in the final decision.

The current proposal relates largely to costs that have already been incurred or committed. Decisions on expenditure from 2027 onwards will be genuinely prospective, potentially involving many billions of pounds of further early-stage costs. These two situations are fundamentally different and require different regulatory treatment.

There is a material risk that allowing early recovery now will create regulatory expectations and practical momentum that constrain the CAA's ability to exercise effective oversight later. As consumer-funded expenditure accumulates, sunk-cost dynamics increasingly limit the regulator's freedom to challenge scope, design choices or cost escalation without implicitly accepting that prior decisions were inefficient or unnecessary.

Iberia is particularly concerned that prioritising alignment with a preferred timetable over robust cost control at this stage risks embedding avoidable inefficiencies into the project from the outset. Early expansion costs required to secure the DCO could potentially amount to as much as £9 billion over the next few years. Given the very wide range of potential total project costs identified by advisers, the consumer welfare case for expansion cannot be assumed, and the regulatory framework must retain maximum flexibility.

It is therefore critical that the CAA commits now to developing a comprehensive ex-ante governance framework for all early expansion costs from 2027 onwards, before any such expenditure is incurred.

3. The consumer benefits case remains unproven

Iberia does not consider that the Draft Decision is supported by a sufficiently robust or up-to-date consumer benefits assessment to justify the immediate and unavoidable costs it would impose on passengers.

The analysis relied upon by the CAA draws heavily on historic appraisals and material commissioned by HAL itself. While such sources may provide context, they do not substitute for an independent, contemporary assessment of the costs, risks and likely benefits of expansion in current market conditions.

In particular, claims regarding the elimination of scarcity rents and wider consumer gains remain contested and subject to significant uncertainty. The Draft Decision does not demonstrate that these benefits are likely to materialise at a scale or within a timeframe that would outweigh the near-term costs borne by consumers.

For Iberia's customers, the downside is clear and immediate: higher airport charges passed through into ticket prices. By contrast, any benefits are uncertain, contingent on multiple future decisions, and likely to arise many years into the future, if at all.

In these circumstances, reliance on the existence of "plausible scenarios" in which consumers might benefit is not an adequate basis for regulatory intervention. Proportionality requires a reasonable degree of confidence that benefits are likely to exceed costs, not merely that they are conceivable.

4. The proposed safeguards for 2025–26 costs are insufficient

Iberia considers that the safeguards proposed in the Draft Decision do not provide meaningful protection for consumers.

Ex-post review is inherently weak where costs are already sunk and information asymmetries favour the regulated entity. The Draft Decision allows substantial expenditure to be recovered without clearly defined outputs, milestones or success criteria, and without an effective clawback mechanism should expansion not proceed.

The proposed expenditure cap does not function as a binding constraint if it can be revisited in response to timetable pressure. Nor does the proposed assurance framework provide genuine independence if assessors are not clearly accountable to the CAA.

There is also a risk that consumer-funded early design and preparatory work will pre-empt or prejudice future decisions on delivery models, including the potential involvement of third parties. Early technical and design choices can materially shape the eventual project, and once funded by consumers, those choices become difficult to unwind.

If the CAA nonetheless proceeds with some form of early cost recovery, Iberia considers that any final decision must, at a minimum, include:

- a binding ex-ante approval regime for all future early costs;
- clearly specified outputs and delivery milestones;
- genuinely independent assessment appointed by and accountable to the CAA;
- remuneration consistent with debt-like, not equity-like, risk;
- implementing a binding commitment upon HAL to provide full and timely access to information to all prospective promoters;
- strict expenditure caps with a high evidential threshold for any increase; and
- effective clawback arrangements if development consent is not obtained.

5. Consultation process shortcomings and potential legal implications

Iberia has concerns regarding the consultation process followed in reaching the Draft Decision and the implications this may have for the robustness of the CAA's decision-making.

In particular, the interval between the close of the consultation and the publication of the CAA's minded-to position was extremely short (i.e. 15 days) given the complexity, scale and significance of the issues raised by stakeholders. Responses addressed detailed questions of regulatory principle, risk allocation, consumer protection and long-term governance. The compressed timetable raises legitimate concerns as to whether those submissions were afforded the degree of careful and conscientious consideration that such matters warrant.

These concerns are reinforced by the fact that a substantial majority of respondents opposed the proposed approach to early cost recovery, yet the Draft Decision does not meaningfully engage with the central alternative advanced by stakeholders - namely, that early expansion costs should remain fully at risk until development consent is secured. While the CAA is not required to agree with consultees, it is required to demonstrate that it has grappled with the substance of the arguments presented and to explain clearly why credible alternatives have been rejected. In Iberia's view, that standard has not been met.

Iberia is also concerned that the Draft Decision refers to further analysis and evidence that may inform the final decision, including updated assessments of costs and benefits, without committing to share that material with stakeholders in advance. Proceeding on the basis of new or updated analysis that has not been consulted upon would risk undermining the fairness and lawfulness of the process. Effective consultation requires that stakeholders are given sufficient information to enable an informed response, particularly where the decision in question would impose immediate and irreversible costs on consumers.

Taken together, these procedural issues risk weakening confidence in the regulatory process at a critical juncture. They also expose the final decision to avoidable legal risk if it is perceived that the consultation has not met the required standards of transparency, fairness and proper consideration.

Iberia would strongly prefer to avoid such outcomes. However, it must reserve all rights in relation to the final decision, including the right to pursue legal remedies if necessary to protect the interests of its passengers and the integrity of the regulatory framework.

Conclusion

For the reasons set out above, Iberia considers the Draft Decision to be flawed in principle and inconsistent with the CAA's statutory duties to protect consumers and promote efficiency.

Allowing recovery of early expansion costs prior to DCO approval transfers speculative risk to passengers, weakens incentives for cost discipline, and risks constraining effective regulatory oversight at later stages of the project.

Iberia therefore urges the CAA to withdraw the Draft Decision and to reaffirm an at-risk approach to early expansion costs, under which HAL bears development risk until development consent is secured and efficiently incurred costs are only considered for recovery post-consent.

If the CAA proceeds with permitting recovery of 2025-26 costs, it must clearly and unequivocally delink that decision from the treatment of future expenditure and commit now to establishing a robust, ex-ante governance framework for all early expansion costs from 2027 onwards, developed with full stakeholder consultation.