



British Airways plc,
Waterside,
PO Box 365,
Harmondsworth,
UB7 0GA

Civil Aviation Authority,
Aviation House,
Beehive Ring Road,
Crawley,
West Sussex,
RH6 0YR

24 July 2025

British Airways response to CAP3121 "Initial proposals for modifying the Licence to support the implementation of a UK Airspace Design Service"

Thank you for the opportunity to respond to the consultation on "Initial proposals for modifying the Licence to support the implementation of a UK Airspace Design Service". We set out below our views and areas of feedback.

Executive Summary

We value the engagement of the airline community and stakeholders in this process and the opportunity to respond with our considered feedback:

- a) **Support for new Airspace Design Service:** British Airways endorses the creation of a single entity ("ADS") to design and deliver modernised UK airspace, particularly to incorporate the responsibility for design into the role of the ADS for ACP clusters as an apparent key requirement for the design of a singular ACP for the LTMA
- b) **Airspace modernisation in the LTMA is a critical enabler for London airport capacity expansion, notably at Heathrow:** but, airspace modernisation is required regardless of expansion and should not be beholden to decision timelines on airport expansion plans. Consideration should be afforded to the timing and dependencies between ACP clusters in terms of resource requirements and also implications for the design of the airspace structures themselves, notably between the Manchester and LTMA clusters.
- c) **Need for robust policy framework:** A clear, stable government policy on airspace modernisation is fundamental to define requirements, processes, responsibilities and engage local communities effectively and consistently.
- d) **High-level obligations require clarity and consideration in combination with the scope and strategic priorities to provide a suitable overall package in the Licence:** While supporting the CAA's duty to maintain safety, British Airways finds

the proposed high-level obligations too vague, lacking sufficient direction and scope to ensure ADS delivers a singular, optimised ACP for the LTMA and applying appropriate prioritisation of its other obligations emergent under the CAA's proposals. Clear scope and obligations in the licence are preferred to provide certainty and focus through the NR23 regulatory period and approaching NR28.

- e) **Balance in licence flexibility and consultation:** The proposal should present an appropriate balance between flexibility with statutory stakeholder consultation and certainty in delivery obligations to avoid changes that could hinder delivery or have adverse effects to benefits realisation. Following known and familiar approaches to licence modifications reduces risks and provides certainty for stakeholders including the Licensee.
- f) **Cost recovery and efficiency:** A cost pass-through approach for the remainder of the current regulatory period (NR23) appears reasonable, with a move to a determined cost approach for the next period (NR28) appropriate. Efficiency assessments should be included to strengthen the incentive for efficient costs to be incurred during the remainder of NR23. It is our strong opinion that capitalising ADS costs onto a regulatory asset base is unsuitable and presents a disproportionate approach to regulation, with an operating cost approach preferred.
- g) **Governance and Advisory Board:** The creation of an Advisory Board is appropriate, but its structure, membership, and terms of reference should be set by the CAA and DfT after stakeholder consultation to ensure it is appropriately established. Lessons and experiences from the functioning of the ACOG Steering Committee should be drawn into the design of the Advisory Board. Appropriate commercial operator representation must be included in the Advisory Board given the expertise presented by Users such as British Airways.
- h) **Stakeholder relationships and funding:** Clear roles, responsibilities, and accountability mechanisms are needed between ADS, ACP sponsors, and airports to prevent delays and risk of cost duplication. Funding for engagement activities must be carefully defined to avoid inefficiencies being borne by consumers.
- i) **Airspace Design Support Fund concerns:** British Airways is concerned that NERL administering the Support Fund could distract from ADS' core obligation and that fund allocation involves policy judgments better suited for an independent body like CAA or DfT, akin to the set up provided for the ASF.

1. The need for the establishment of a new Airspace Design Service

- 1.1. We support the intention of introducing a new single entity, known as the Airspace Design Service ("ADS"), to design and deliver a modernised airspace in the UK. We are minded that the need for this service is most apparent to fulfil the requirement of designing and implementing a singular Airspace Change Proposal ("ACP") for the London Terminal Manoeuvring Area ("LTMA") in the immediacy.

- 1.2. However, the continued progress of the non-LTMA ACP clusters needs to be considered in further detail and how the ADS will be positioned to fulfil the residual functions of ACOG to support the realisation of these clusters to a clearly defined policy with priorities to guide ADS in its execution of its obligations. These should be consulted on further with stakeholders to ensure an appropriate roadmap across clusters is established that reflects the establishment of the ADS and its proposed scope and obligations.
- 1.3. Modernising the UK's airspace is critical to supporting economic growth, reducing delays, and improving environmental performance. There is a clear and compelling need for the entire UK network system to be modernised to deliver the transformative change that is required to enable UK airspace to meet the challenges of increased traffic in the 21st century. Without urgent reform, delays are forecast to worsen significantly, with a greater than five-fold increase to delays from a 28% increase to traffic in the LTMA by 2040¹, threatening consumer experience and the wider economy.
- 1.4. The modernisation of the LTMA airspace, through a singular design, is a critical prerequisite to expansion at London Heathrow and is further heightened in importance when other London airport expansion plans are considered for their effects on traffic growth within the LTMA.
- 1.5. However, a vital policy step is to recognise that airspace modernisation is needed regardless of the progress or approval of any airport expansion plans. Airspace must be modernised, with the clear priority being established for the timely delivery of a modernised LTMA, with the consideration that new runway or airport infrastructure generating incremental traffic growth would be enabled by the new airspace structure. The timeline in determining airport expansion plans must not be an excuse to hold back airspace modernisation.
- 1.6. A firm commitment to a fixed date, through a delivery obligation in the Licence, is needed from NERL, CAA and DfT for the singular design and implementation of the LTMA modernisation within the NR28 period.

2. A balanced approach to the Licence and modification

- 2.1. The balance of flexibility and the requirement for statutory consultation of stakeholders for changes in scope, obligations and, or strategic priorities needs to be carefully considered in their entirety and formation as a package overall. The CAA's proposal appears to shift the balance in this regard from the previous consultation, presenting an apparent reduced need for consultation in instances of licence modifications or changes in obligations on the ADS.
- 2.2. The current proposal, when considered as a total package, appears to present an overly strong emphasis on presenting flexibility and the ability for direction to be set by the CAA or DfT at the detriment of appropriate consultation of stakeholders with

¹ [UK Airspace Change Masterplan Iteration 2, version 2.2](#)

the resultant increased risk of ad-hoc or short-term changes that could have negative consequences for the delivery of the changes required. An overreliance on direction from the CAA or DfT in establishing the ADS, or in adjusting the conditions of its licence, risks diminished consultation of stakeholders and the appropriate provision of safeguards for consumers and stakeholders including those of the licensee.

- 2.3. In assessing the CAA's Initial Proposals, it is our preference that improved clarity and tighter definition is provided through the scope and obligations provided in the licence modifications to enable a greater focus and certainty to be provided to the ADS, NERL and other stakeholders in the short and medium-term that should cover through to the end of the NR28 regulatory period.
- 2.4. The establishment of the licence needs to strike the appropriate balance between providing sufficient direction and focus to ensure the new service delivers the required outputs in the short and medium term and is positioned to do so in an efficient and cost-effective manner.
- 2.5. We envisage there will be developments required to the scope and obligations of the Airspace Design Service in the long term, as an example but not envisioned to be limited to, the form of addressing the airspace design needs emergent from new users such as eVTOL and drone operators. At such point in time that these considerations would be appropriate for undertaking by the ADS, it would seem appropriate that statutory consultation is undertaken to adjust the scope, obligations and as appropriate the charging arrangements to ensure the ICAO User Pays Principle applies.
- 2.6. Fundamentally the primary requirement for modernising airspace is to have a well-defined, robust and stable policy framework for airspace modernisation that clearly articulates the policy of Government. This in turn can then be used to outline clear responsibilities and deliverables for the CAA, NATS and the wider industry. Achieving this will allow local communities impacted by airspace changes to understand the need, process and basis of decisions and to be fully engaged and able to participate in the process. However, fundamentally the biggest barrier to airspace change is the political will to take difficult decisions, determined to a consistent policy, that inherently benefit or disbenefit communities to varying extents.

3. The geographic scope and mechanism for licence modification

- 3.1. The geographic scope needs to be tightly defined in correlation with the strategic objectives and obligations established for the ADS. The LTMA is the most complex airspace cluster and has the potential to deliver the most significant benefits from airspace modernisation including presenting a critical enabler for expansion at Heathrow.
- 3.2. We are minded that the LTMA should form the initial geographic scope for the ADS, with the appropriate obligations setting forth the associated required deliverables and remaining so until such point in time is determined as appropriate through consultation of stakeholders for the geographic scope to be modified.

- 3.3. The clarity of geographic scope would provide greater certainty and reduce the likelihood of risk materialisation associated with the alternative approaches proposed. As such, in combination with the familiarity for stakeholders with the approach and its advantages, Option 1 is our preference for establishing the geographic scope and approach to changes in obligations on the ADS.
- 3.4. We recognise that dependent upon the determination of the CAA regarding the role of the ADS in fulfilling the residual activities of ACOG, the prioritisation of the ACP clusters and also the administration of the Airspace Design Support Fund, it could be considered appropriate for the whole of the UK to be presented as the geographic scope on the face of the licence, under such scenario detailed and well defined obligations would be required to set the requirements and boundaries of each of the activities to be undertaken by ADS and ensure that the LTMA singular ACP design and implementation remains the focus for delivery as per current consideration of the ADS' priority.

4. The nature of the obligation

- 4.1. In establishing its Initial Proposals, the CAA has had mind to its primary duty under the Transport Act 2000 ("TA00") to maintain a high standard of safety in the provision of air traffic services. We support this approach and the continuation of the primary duty as the overarching regard in the dispensation of duties considering NERL's Licence.
- 4.2. The CAA has set out its intention to establish high-level obligations on NERL to provide the ADS, with the purpose of combining relevant airspace change proposals to form a single design and single ACP meeting a series of criteria, and to administer the Airspace Design Support Fund. Within the Initial Proposals the CAA establish that obligations will be high-level to give NERL reasonable freedom to decide how to comply with them.
- 4.3. The Initial Proposals as presented appear to exert an over reliance on strategic priorities and guidance from CAA and DfT to inform NERL's approach to implementing high-level obligations, an approach that as currently proposed appears to lack an appropriate level of detail and the provision of sufficient clarity to establish an effective and efficient ADS that is required to drive and deliver the elements of the airspace modernisation plan that it should specifically be tasked with.
- 4.4. The proposed high-level approach and obligations appear to lack the provision of sufficient direction, and the scope required to focus the ADS to achieving the modernisation of airspace against a clear set of deliverables in the form of delivery obligations.
- 4.5. We are minded that the ADS should be tasked with the specific primary obligation to designing and delivering a singular ACP for the LTMA that represents the appropriate balance of considerations and optimises system wide benefits. However, we recognise the dependencies between clusters in regards of the airspace designs

and consider further consideration is needed in establishing the prioritisation and roadmap under the ADS of approaching the ACP clusters.

5. Governance, Reporting and Advisory Board

- 5.1. The creation of an Advisory Board as a mechanism for key stakeholders to engage with and have oversight and visibility of the work of the UKADS at a strategic level² appears to be an appropriate development in the creation of the ADS. It will be appropriate that the creation of the Advisory Board is established through guidance being set from the CAA and DfT, following consultation with stakeholders.
- 5.2. Lessons and experiences from the existing set up of the ACOG Steering Committee should be drawn into the design of the Advisory Board.
- 5.3. Whilst the details of the Advisory Board are to be devised, it is critical that operators are suitably consulted in its formation and are sufficiently represented on the Advisory Board.

6. Relationships with stakeholders

- 6.1. The ADS will be required to work closely with partners, including sponsors of existing ACP's and airports. Establishing clear roles, responsibilities and accountabilities between parties will need to be clearly defined to provide an efficient service. At this stage it appears that additional thought needs to be provided to ensuring accountability for completing designated actions is incorporated into arrangements, including how such accountability can be enacted. Delays from incomplete or mis-managed engagement should have mitigations and, or redress mechanisms addressed in the guidance set out. We await the proposed guidance to be set out by the CAA later this year on the roles and arrangements to be established between the ADS and its partners.
- 6.2. The funding of engagement activities requires due consideration to avoid duplication of costs and inefficiencies to be incurred at the expense of consumers. This could emerge as an area of potential realisation where the roles and responsibilities between the ADS and airports in the execution of stakeholder management are insufficiently defined, particularly if the extent of activities varies between airports. Consumers should not be burdened with a potential or realised duplication of costs that could be risked through the splitting of funding sources for such activities or generated as a result of opaque requirements and, or boundaries. Carefully definition of the boundaries of funding any such set activity requirement should be provided.
- 6.3. It is currently unclear how the administration of funding for such engagement activities will be delivered and reported for activities falling within the ADS' scope. It could be apparent for a set of requirements mirroring the Airspace Design Support Fund administration to be implemented for the funding of stakeholder engagement where airports draw funding to enable their activities.

² [Policy paper UKADS 25/2 para 32](#)

7. The Airspace Design Support Fund

- 7.1. The CAA propose that a Support Fund is established alongside the ADS and will be administered by NERL through the ADS for UK commercial airports that fall outside the scope of the ADS³, subject to other criteria. In this initial definition, it is apparent consideration needs to be taken across all elements of the licence modification proposals, particularly regarding the establishment and definition of the geographic scope of the ADS given the interaction with the definitions of the obligations for the varying elements of the proposals.
- 7.2. We are concerned that the administration of a Support Fund by NERL could become a distraction from the primary requirement for the establishment of the ADS and delivery of a single ACP for the LTMA. Furthermore, we recognise NERL's concerns that the allocation of funds would involve policy judgements and assessing the degree of financial support bids merit. It is our consideration that this activity would be apparent for completion by an independent body such as the CAA or DfT under a guise potentially reflective of the existing administration, funding collection through the en-route unit rate and Decision Board Membership of the Airspace Modernisation Support Fund ("ASF")⁴.
- 7.3. The consideration that the CAA or DfT, as co-sponsors, would provide an escalation route for novel or contentious decisions⁵ indicates the respective bodies authority and expertise in establishing such decisions. Further, this point raises the consideration of procedure and impacts of potential challenge of the ADS in its administration of the Support Fund both highlighting the risk the obligation presents to NERL and to delivering the core requirement of the ADS, delivering the singular ACP for the LTMA in the immediate term.

8. The role and scope of Airspace Change Organising Committee ("ACOG")

- 8.1. We support the ADS taking over responsibility for the functions provided by ACOG for the LTMA, reflective of this as the clear delivery obligation for the ADS. We consider this to be an essential element to enabling the ADS deliver the aim to modernise the LTMA airspace structure. The efficiencies available through the ADS both designing the airspace and also completing the functions fulfilled by ACOG including the programme management and co-ordination activities should provide benefits for stakeholders and consumers.
- 8.2. The benefits identified⁶ by the CAA for the cessation of ACOG for non-LTMA cluster ACP's, need to be balanced by providing clear definition to the priorities and obligations to be undertaken by ADS in its licence conditions to avoid divergence or

³ CAP3121 para 2.88

⁴ <https://www.caa.co.uk/commercial-industry/airspace/airspace-modernisation/airspace-modernisation-strategy-support-fund/airspace-modernisation-strategy-support-fund/>

⁵ UKADS policy paper 25-3: Airspace Design Support Fund para 20

⁶ CAP3121 para 2.104

confliction in actions and to avoid detriment to the timely and efficient realisation of the LTMA ACP.

- 8.3. The reallocation of funds currently provided for ACOG through the NR23 determination should be addressed including transparently illustrating any implication on charges.

9. Consequential modifications to the Licence

- 9.1. We support the proposed additional accounting requirements under Condition 6 and Condition 7 to enable the separate, transparent assessment of the financial position of NERL's En Route, Oceanic and ADS businesses and for the ADS to be included within the Intervention Plan. The update of the regulatory accounting guidelines to sufficiently and transparently address any transactions between NERL's business units, for example in the requirement for the use of simulators or resources, would appear a reasonable requirement.

10. Costs of new airspace design services

- 10.1. A cost pass through approach for the remainder of NR23 appears to provide an appropriate balance between enabling the timely establishment and initial operation of the ADS with the confidence to recover its efficient costs and the level of risk faced by NERL in taking on the licence obligations of the ADS.
- 10.2. The CAA should set the clear direction to establishing a determined cost approach as part of the regulatory review for NR28, representing the soonest reasonable opportunity. This would appear to allow sufficient evidence on the cost of operation and for the scope and obligations of the ADS to be established for the CAA to include the ADS in its determined cost approach as utilised for NERL's other regulated businesses and present a stronger cost efficiency incentive on NERL.
- 10.3. The diminished incentive for costs to be incurred efficiently as a result of adopting a cost pass through approach for the remainder of NR23 needs to be addressed further in the development of the CAA's Final Proposals. It appears reasonable that an ex-post efficiency assessment is applied for the remainder of NR23 to the ADS.
- 10.4. Considering the uncertainties and limitations raised in the cost estimate modelling it would appear reasonable that further evidence is established as part of developing the CAA's Final Proposals. The provision of further cost assessments would benefit from following the framework and legislation consultations such as to CAP1616 and the Air Navigation Guidance, which would provide greater clarity on the work programme required to be undertaken by the ADS. This would be in combination to the greater clarity and certainty available through the evolution of the CAA and DfT's proposals on the scope and obligations of the ADS that has taken place since the initial cost assessment was completed. The updated assessment would provide enhanced evidence for establishing the initial cost allowance and associated charge.

- 10.5. The inclusion of a correction mechanism needs to be married to the provision of an efficiency assessment and trigger for stakeholder consultation to determine the allowable recoverable costs reflect an efficient cost level. Recovering such variances in costs and revenues would be reasonable to complete on an n+2 basis, given due consultation on the size of cost differentials to ensure affordability and potential excessive spikes in charges are appropriately considered.
- 10.6. On the basis of the evidence available, we are minded to advocate that the cost allowance and thus charges are set on the base scenario modelled by egis given the combination of cost pass through approach, inclusion of a correction mechanism and uncertainties associated with the current cost estimation modelling. We feel these steps would provide a greater incentive for efficient costs to be incurred by ADS.
- 10.7. The capitalisation of the ADS' costs onto a RAB does not appear to be an appropriate mechanism in this instance. The high proportion of costs generated from staff costs, in combination with the disproportionate level of complexities and regulatory oversight required to administer a RAB-based approach, indicate the advantages of an operating margin approach are more suited to application for the ADS.
- 10.8. It appears that the level of return that would be allowed under the operating margin approach requires further consideration that represents the level of risk presented through the licence obligations and the approach the CAA has indicated it will take towards intervention and enforcement towards the ADS. It would seem reasonable that this is considered in conjunction with the approach taken by the co-sponsors to establishing the obligations and scope of the licence modifications such as setting the scope of the licence on the face of the licence. In allowing for an operating margin allowance the CAA should be mindful of creating perverse incentives on NERL to prioritise ADS activities over other licence activities.

We look forward to engaging further on the development of the proposals and related consultations. Please feel free to approach us with any questions on our response to this consultation.

Yours sincerely,

Rory Lillington
Economic Regulation
Networks & Alliances
British Airways Plc