

28<sup>th</sup> September 2018  
Stuart Holder  
Civil Aviation Authority  
CAA House  
45-59 Kingsway  
London  
WC2B 6TE

Dear Stuart

Heathrow welcomes the opportunity to respond to the CAA's initial consultation on the future economic regulation of Gatwick Airport Limited (GAL).

The landscape of aviation in the South East will change over the coming years with the provision of new capacity into the market. This will provide the opportunity for increased competition, allowing airlines to grow and to enter the market. This will unlock benefits for consumers, through increased choice and lower airfares, as well as benefits for the UK economy as a whole. Any decisions taken by the CAA regarding the future of airports regulation should take account of this changing context. The CAA needs to employ a predictable decision-making process with decisions based on a robust and transparent analysis of the available options and an industry led approach to ensure regulatory frameworks are fit for purpose. Only by doing this can the CAA ensure it allows these benefits to be realised and fulfil its duty to consumers.

Our response centres around the following points:

- The importance of a robust knowledge base of consumer insight to protect consumers' interests and ensure value for money;
- The importance of ensuring a suitable level of planning resilience under growth; and
- The benefits of a commitments based regulatory framework and consistency of approach.

### **Consumer interests and value for money**

In its consultation, the CAA states the importance of undertaking consumer engagement to ensure that the framework can fully protect the consumer interest. Heathrow echoes this sentiment. It is vital that investment and service quality targets are informed by a robust consumer evidence base to ensure that consumers receive a service that they value and that meets their requirements. Heathrow agrees that value for money should be assessed from a consumer perspective, ensuring that proposals lead to service outcomes which meet the expectations of current and future consumers. Only when this is the case are consumers' interests truly protected.

In paragraph 2.8 of its document, the CAA makes the explicit assumption that the level of airport charges is reflective of the overall level of fares paid by the passenger. While this may be the case in some circumstances, this has been shown not to be the position at congested airports, where airlines are able to extract a premium from passengers. In this case, the level of airport charge does not impact the overall fares to passengers. This assumption has been accepted by

the Department for Transport in its assessment of the need for new airport capacity in the South East and is explored in Frontier Economics' 2017 report for Heathrow on Competition and Choice<sup>1</sup>. Where this has been proven to be the case, we would expect the CAA to ensure that value for money for consumers is delivered through promoting airline competition in order to reduce overall airfares, rather than focusing on the assumption that lower airport charges, which may not be reflective of the service required by consumers, represents value for money and a better passenger proposition.

Building on the CAA's guidance to Heathrow regarding its expectations for the forthcoming H7 period, Heathrow has developed and implemented its consumer engagement strategy, in co-operation with the Consumer Challenge Board (CCB). This sets out how Heathrow will engage with current and potential future passengers to ensure its plans for the H7 period and expansion are built on an evidence base of consumer requirements. We are happy to engage to share best practice on how to engage consumers to understand their needs. In addition to direct engagement with consumers, our strategy also recognises that, in some cases, engagement with specialist organisations and consumer interest groups will be required. This ensures that the views of hard to reach consumers can be taken into consideration and that views can be gained on topics on which consumers themselves may be less informed. It is in this case that the willingness of airlines to share their knowledge and insights on the services important to meet the needs of passengers is required.

The CAA raises the issue of service quality in areas of the airport journey which are not fully within the airport operator's control. It is Heathrow's view that it is important to gain consumer insight into these areas of the experience to inform areas of focus and co-operation with other parties. While these areas should therefore be monitored and reviewed to ensure delivery to passengers, these areas should not be subject to financial regulatory incentives.

### **The importance of ensuring a suitable level of planning resilience under growth**

In paragraph 3.7 of its document, the CAA sets out the importance of understanding consumer views on resilience and how consumer needs can be best served in increasingly congested airports. Heathrow agrees that ensuring a suitable level of resilience is important to ensuring that the needs of consumers can be met.

In the case of Gatwick, the CAA notes concerns raised regarding the levels of resilience and congestion impacting on-time performance. Heathrow shares these concerns. It is Heathrow's view that a decline in punctuality at Gatwick together with Gatwick's withdrawal from Airports Collaborative Decision Making (A-CDM), mean that limited London airspace is not always being used to best effect. This ultimately impacts all consumers using London airspace, including Heathrow's traffic. While airports operating near capacity will inevitably incur delays on occasion, maintaining an up to date re-plan of anticipated movements enables most effective use of limited resource.

Reimplementing (A-CDM) and ensuring that estimated off block times are maintained in the system would enable more effective use of the limited and shared London airspace by allowing

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<sup>1</sup>[https://www.caa.co.uk/uploadedFiles/CAA/Content/Accordion/Standard\\_Content/Commercial/Airports/HAL%20-%20Frontier%20Competition%20and%20Choice.pdf](https://www.caa.co.uk/uploadedFiles/CAA/Content/Accordion/Standard_Content/Commercial/Airports/HAL%20-%20Frontier%20Competition%20and%20Choice.pdf)

NATS to better predict traffic demand. We therefore request the CAA reviews Gatwick's approach to resilience to ensure that the interests of air transport users across London are protected.

**The benefits of a commitments based regulatory framework and consistency of approach**

As set out above, the introduction of increased levels of capacity in the London market is likely to have a significant impact on competition. The consequences of this evolution, however, are as yet uncertain. The CAA needs to reflect the changing market structure in its decision making to drive stability through this period of uncertainty.

Heathrow considers that regulatory best practice to achieve this is to employ a predictable and transparent decision-making process. Stability does not mean defaulting to the current regulatory structure, but assessing regulatory options from a balanced and fair perspective leading to predictable and transparent decision making. In addition, we consider that best regulatory practice is also achieved by taking an industry led approach. This involves taking account of the views of airports and airlines in the decision-making process, to ensure that the regulation employed is fit for purpose and responsive to industry and consumer needs. To that end, we agree with the CAA's proposed approach to the review of economic regulation at Gatwick and its assumption that the future economic regulation of Gatwick will be based on the existing commitments framework, given that it is not aware of any stakeholder desire to return to the previous form of regulation which, "*tended to be less flexible and have less focus on encouraging the airport and airlines to enter into tailored commercial arrangements*". We would encourage the CAA to follow the same principle when it comes to the future of regulation at Heathrow.

The CAA is also exploring further potential changes to the current regulatory framework at Heathrow to encourage greater levels of commercial behaviour for the benefit of consumers. To ensure stability through the best practice decision making set out above, the CAA should ensure it is considering all the available options and carrying out a transparent, stakeholder led assessment to implement the required solution. Therefore, as set out in our response to CAP 1658, we are of the view that the CAA should consider the benefits of implementing a similar framework at Heathrow.

In principle, Heathrow agrees with the CAA's assessment that a commitments based framework, such as the one in place at Gatwick, better facilitates the development of commercial agreements between airports and airlines than the current, more rigid, regulatory structure in place at Heathrow. This increased flexibility to design and agree a framework that best meets the requirements of passengers and airlines can better ensure the protection of consumers' interests.

Yours sincerely,



Richard Hepburn  
Regulatory Director