

IATA Response to consultation on the Illustrative proposals for modifying the Licence to support the implementation of a UK Airspace Design Service CAP3063

General Remarks:

The CAA shall factor in its work, long-term ramifications on growth, of which airspace modernisation is a key driver. These include ensuring consumer affordability, sustainability, the ability of consumers to fly – such as to visit friends and family, as well as connecting UK regions to the world and promoting world trade. We continue to be concerned with the pace of delivering airspace modernisation, which is a prerequisite to unlocking this growth for the UK sustainably.

We welcome stakeholders' views on any aspects of the approach, in particular, on the following matters:

- *our overall approach to establishing licence modifications for NERL that will enable it to successfully provide the Airspace Design Service;*

The link to economic regulation of this new service could be further developed. If UKADS is to become a separate service in the future, also separate from NERL in a second stage, all the accounts need to be separate and the processes to establish a budget etc should be clearly defined and implemented. .

As indicated in the complementary response provided to the consultation on UK Airspace Design Service, more clarity is needed on the phased approach in order to establish the intermediate steps, to mitigate the risk of a temporary solution deriving in permanent costs (e.g. additional staff in NERL) that could affect future NERL's cost efficiency.

- *the views set out above that this approach is consistent with our statutory duties, including in relation to safety, furthering the interests of customers and consumers, economy and efficiency, and NERL's financeability.*

As indicated above, savings will depend on the final implementation of the UKADS, cost and budget management etc. Airspace Design Support Fund will also require further clarification.

Later chapters of the document (chapter 2) indicate that safety cases would not be part of NERL's responsibilities as UKADS, but of the airport or other airspace change partner. This sounds strange as safety criteria need to be considered at all stages of procedure design, so there might be a need to clarify safety responsibilities during the whole life of a procedure, including design and implementation.

As indicated in the parallel consultation on UK Airspace Design Service, there is a potential need for a neutral entity to judge the environmental, economic and safety cases. Also, as indicated in the complementary response, the consultation process is not clear, which is important to fulfil the objective of furthering the interests of customers and consumers, and to ensure NERL's neutrality and balancing of the involved stakeholders' interests.

- *the prospective obligation on NERL to perform the Airspace Design Service and the approach to setting the geographic scope of these activities;*

We note that in the definition of the Airspace Design Service three tasks are defined, which are mostly administrative (1-assessing, shortlisting, and selecting proposals promoted by third parties; 2-combining those proposals to develop a single design proposal for changes to UK airspace; and 3-sponsoring that proposal through the Airspace Change Process). The important task of delivering the design of the procedures (even if subcontracted) is missing in the list, while it is understood that it is the core service to be provided, requiring the right expertise to ensure a sensible airspace design. Similarly with other activities also part of the Airspace Change Process as per paragraph 2.6. requires further clarification..

With respect to the geographical scope, please refer to comments already conveyed in the parallel consultation on UKADS, where it was indicated that although understanding the importance and priority on London TMA, limiting NERLs obligations to that geographical area, might impact not only the development of projects outside the area but the whole "holistic national approach" intended by this initiative.

NERL's obligation to "at all times to develop and maintain its assets, personnel, systems and other parts of the business so as to be able to comply with its licence obligations" needs to be reconciled with the theoretically temporary nature of NERL's appointment as UKADS.

- *the prospective obligations on NERL with respect to its relations with third parties, including through the Advisory Board and working arrangements with partner organisations; and*

More details should be provided on the expected Advisory board composition and other governance details. Depending on the final setup of who pays for what, governance must include commercial airlines or their representatives, beyond low-level technical consultations on the procedures. Their views also need to be heard at strategic levels.

As said in the parallel consultation neither governance arrangements nor consultation procedures are clear or mature proposals at the stage of this consultation.

- *the approach to NERL's new obligations and those existing obligations relating to ACOG.*

As also responded in the UKADS parallel consultation, it seems that originally the idea is to have a new entity/role, for achieving a holistic approach to UK airspace design. But afterwards the proposal diverts from this original purpose to just make NERL responsible for the London TMA only, not giving a clear view on the expected evolution and arrangements for the other TMAs, which seem to continue working on previous arrangements.

Therefore, the question arises whether the creation of a "new service" is truly necessary or whether it would suffice to make NERL the project/program manager of London TMA modernization by some less complex mechanism.

While it is acknowledged that duplication between current ACOG and UKADS would be undesirable for the London TMA project there is lack of clarity on why UKADS (NERL) in charge on London TMA only should administer the Airspace Design Support Fund for projects outside the London TMA.

- *any views on the consequential changes to NERL's licence discussed in chapter 3 (Consequential modifications to the Licence);*
- *the estimates of the costs of providing the Airspace Design Service and the Airspace Design Support Fund discussed in chapter 4 (Costs of new airspace design services);*

Hypothesis on the Airspace Design Fund are not very clear, as it is not how the Fund would work (eligibility, procedures, accessibility to the fund, need or reserves, how the Fund is established (pre-funding?))

- *any other information stakeholders have on costs or the assumptions it is reasonable to make in projecting costs for the period 2025 to 2035;*

Egis report says that "NERL has a programme of current airspace design work which is predominantly managed through its 'Airspace and Operational Enhancements' CAPEX programme, costing between £13m and £17m per annum in NR23". The cost of the new UKADS service within NERL is estimated also to be within the range of 10-16 million pounds per year. We understand that part of current costs are planned from current projects related to London TMA that are therefore overlapping. Please clarify the overlap.

- *whether the cost pass through approach for recovering costs related to the Airspace Design Service and the Airspace Design Support Fund is appropriate;*

As the costs related to other services provided by NERL are not under full cost recovery, we see no reason from treating Airspace Design Service in a different way.

- *whether these costs should be recovered from users in the year that they are incurred;*

The mechanism should be like other services funding, no need to reinvent the wheel. Costs should be planned ahead to calculate the charges so that enough liquidity is available during the current year to sustain the service. Under-over expenditure can be corrected in n+2 according to the agreed rules. When possible, avoidance on known current limitations with adjustments must be avoided, such as inflation adjustments on planned costs that have not actually materialized (as that would mean rewarding the provider for either under implementation or for costs immune to inflation (e.g salaries or outsourcing at prices contractually fix))

- *whether the duration of the initial charge control for the Airspace Design Service and Airspace Design Support Fund should be 2½ years and then be aligned with NERL's main price control reviews;*

The long-term idea is to establish UKADS in a separate entity and with a wider scope than London TMA, according to the documentation presented for the UKADS consultation. Therefore, the control mechanism to be established needs to be coherent with the long-term plan as well, taking into consideration the timeline to establish the definitive UKADS2 arrangements.

Note that planning already for long-lasting arrangements while NERL is having this UKADS 1 role might disincentivize NERL to complete the task for the London TMA. Incentives are mentioned in chapter 5 but not described, they should be better developed. There need to be signs o guarantee that this new model is better and more effective than the previous one.

Anyway, if NERL stays as UKADS during NR28, for simplicity, price control of the new service should be better aligned with the other mechanisms applied for the other services.

- *the illustrative charges set out in table 5.1 in chapter 5 (Form of control, other regulatory mechanisms, and illustrative charges);*

Charges seem to presume that the current mechanism of en-route or TMA charges collection would be applicable. This means that commercial and business aviation would be the source of financing to the service. (Note that even the charges based in movements instead of service units make use of IFR movements assumptions).

It should be considered that other airspace users (including new entrants) might have airspace design requirements according to their needs, therefore they become users of the design service and as per the user pays principle their share should not be covered by the traditional charges imposed to other users.

Paragraph 5.46 indicates that for the remaining of NR23 “2½ years’ worth of costs (mid-2025 to end of 2027) would be recovered in 2026 and 2027”. Clarity will be needed on whether resources to be diverted to this new service were already part of NERL’s staff to ensure that there is no double counting of costs to be recovered in years “n+2” 2027-2028-2029 as if they were “additional”. It is unlikely that new costs are to be arisen in 2025 already.

If additional (not planned in NR23) costs are to be recovered in the corresponding years “n+2” they might have a significant impact in the unit rates.

A reduction in airport charges would also be expected, for the projects that airports would not be sponsoring any more. Has this impact been estimated?

- *(m)any comments on illustrative drafting of the licence modifications set out in Appendix B and Appendix C.*