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May 15, 2026

Economic Regulation Team
Civil Aviation Authority
Beehive Ring Road
Crawley
West Sussex
RH6 0YR

Re: CAP 3238: Draft Decision on the regulatory treatment of early costs of capacity expansion at Heathrow airport

Dear Economic Regulation Team,

Airlines for America (A4A)[1] welcomes the opportunity to respond to the UK Civil Aviation Authority's (CAA) draft decision on the regulatory treatment of early costs associated with capacity expansion at London's Heathrow Airport. A4A represents leading U.S. passenger and cargo airlines, many of which operate extensive services to and from Heathrow and have a direct interest in ensuring that the airport remains efficient, affordable and competitive for passengers.

Transatlantic air services form an essential economic bridge between the U.S. and the UK, with Heathrow in particular serving as the top foreign scheduled passenger gateway to the U.S., according to the U.S. Department for Transportation. Sustaining Heathrow's competitiveness requires a regulatory framework that prioritizes efficiency, cost discipline and clear, demonstrable benefits for consumers. While A4A recognizes the importance of long-term capacity planning and the potential benefits of expansion, we remain concerned that the CAA's draft decision does not sufficiently protect consumers and risks shifting undue cost and risk onto airlines and passengers in the absence of a sufficiently robust and independently verified evidence base demonstrating net consumer benefit.

The CAA proposes to allow Heathrow Airport Limited (HAL) to recover efficient early costs incurred in 2025 and 2026, capped at £320 million in 2024 prices, with these costs added to the Regulatory Asset Base (RAB) and recovered through airport charges. A4A continues to believe that permitting recovery of early costs prior to the granting of a Development Consent Order represents a fundamental misallocation of risk. Development costs of this kind are normally borne at the project sponsor's risk; allowing recovery before planning approval shifts downside risk to consumers and undermines normal commercial discipline.

While the CAA argues that such recovery is necessary to support timely delivery of expansion, we are not persuaded that this justifies departing from established principles of risk allocation, particularly in the absence of a robust and independently validated cost-benefit case. The CAA's

[1] Members of the association are Alaska Airlines, Inc.; American Airlines Group, Inc.; Atlas Air, Inc.; Delta Air Lines, Inc., Federal Express Corporation; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Continental Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.

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draft decision relies on the existence of “plausible scenarios” in which expansion may deliver net benefits to consumers. However, the consultation itself acknowledges significant uncertainty in both the existence and scale of these benefits. In A4A’s view, forcing consumers to fund early-stage development costs is unfair and unreasonable where the benefits are uncertain. The more equitable approach is for HAL to source this funding through capital markets, as it does frequently through its specialized subsidiary, Heathrow Funding Limited.

Furthermore, the CAA must comply with its obligations under the U.S.–UK Air Transport Agreement (ATA) and Article 15 of the Chicago Convention, which requires charging principles to be cost-related, transparent and non-discriminatory. The prefunding of HAL’s costs raises concerns, as it requires airlines to pay in advance for assets and services that are not yet available. We also note that Article 23 of the ICAO Manual on Charges discourages prefunding, permitting it only in exceptional circumstances and subject to strict conditions that are not satisfied in this case. In addition, the Manual requires the CAA to consider potential contributions from non-aeronautical sources when assessing pre-funding sources. However, CAP 3238 does not assess, or otherwise demonstrate compliance with, the above-mentioned international obligations.

A4A recognizes that the CAA has retained a cap on early costs and proposed a range of safeguards, including *ex post* efficiency reviews, independent assurance and reporting requirements. However, these measures do not sufficiently mitigate the risk of cost escalation. The proposed cap on early costs does not operate as a firm constraint. Its flexible nature, combined with the potential for upward revision, risks weakening cost discipline and undermining its effectiveness as a consumer protection mechanism. At the very least, to truly incentivize economic discipline, the CAA should impose an absolute cap on recovery of early costs.

The reliance on *ex post* efficiency reviews places a high evidentiary burden on the regulator after costs have already been incurred, at a point when regulatory leverage is inherently limited. There is also limited clarity on the criteria for approving additional costs or on the consequences if forecasts are exceeded. Stronger *ex ante* controls and clearly defined thresholds are necessary to ensure that costs remain efficient, justified and in the interests of consumers.

The draft decision states that the approach to early costs in 2025 and 2026 does not set a precedent for costs incurred from 2027 onwards. However, given the potentially significant scale of costs beyond 2026, it is important that the CAA clearly defines the limits of this policy and avoids establishing a precedent that would enable the progressive transfer of development risk to consumers in advance of key regulatory and planning decisions.

Finally, A4A notes the proposal to allow recovery of early costs incurred by Heathrow West Limited. This approach raises broader concerns about requiring consumers to fund competing development proposals where the consumer benefits are not clearly demonstrated or quantified and indeed may never materialize.

A4A supports investment at Heathrow that is efficient and clearly aligned with the interests of passengers. However, the CAA’s draft decision continues to place undue financial risk on airlines and passengers at an early stage of the expansion process, before key uncertainties around costs, benefits, deliverability and the Development Consent Order have been resolved. This approach risks setting a precedent that weakens cost discipline and shifts commercial risk away from project promoters to consumers. This concern is particularly acute given that Heathrow’s charges are already at least double those of comparable global hub airports from which our members operate, including but by no means limited to Schiphol, Dubai International, Frankfurt and Paris Charles de Gaulle.[2] Passengers are also subject to the highest departure tax in the world in the form of Air Passenger Duty. Any increase from this already elevated baseline risks undermining the competitiveness of Heathrow as an international hub.

A4A urges the CAA to reconsider its approach, require HAL to defray early recovery costs consistent with the principle enshrined in the U.S.-EU ATA, UK law and ICAO principles, that charges must be related to the costs of services rendered, At a minimum, CAA should strengthen the evidentiary threshold for early cost recovery, introduce clearer and more binding limits on costs, enhance *ex ant*e controls and ensure that risk and return are more appropriately aligned.

We thank you for the opportunity to comment and look forward to continued engagement as the CAA develops its final decision.

Sincerely,

Keith Glatz
Senior Vice President – International Affairs

[2] Jacobs Airport Charges Index