

## easyJet's response to CAP3012 – Economic Regulation of Gatwick Airport Limited: second consultation on extending the current commitments

### 1 INTRODUCTION AND SUMMARY

1.1 easyJet plc (“**easyJet**”) welcomes the opportunity to comment on the Civil Aviation Authority’s (“**CAA**”) consultation paper CAP3012 on the economic regulation of Gatwick Airport Limited (“**GAL**”) (the “**Second Consultation**”).

1.2 As the CAA is aware, easyJet is the largest airline operator at Gatwick Airport (the “**Airport**”), currently carrying 46% of GAL’s traffic<sup>1</sup>. As such, easyJet and its passengers bear the greatest impact of GAL’s proposals of any airline operating at the Airport.

1.3 easyJet **does not oppose GAL’s proposal**.

1.4 Nevertheless, easyJet considers that there are elements of the current Contract and Commitments framework (the “**Framework**”) which would benefit from further customary review by the CAA during the G7 Extension period and in advance of any determination for the subsequent period, starting on 1 April 2029 (the “**Post G7 Extension Period**”). There are also a number of emerging trends at the Airport which may require further attention and consideration by the CAA in advance of the Post G7 Extension Period, including how GAL consults with stakeholders, and invests in the Airport, to best improve customer experience, operational resilience and to minimise delays.

1.5 easyJet considers that the CAA’s regulatory review for the Post G7 Extension Period should be undertaken with further notice to consultees than this Second Consultation and to give appropriate time for a full review, for example, commencing during H1 2027. Such a review would be appropriate not least given the greater clarity there will be regarding the Northern Runway development project, and the impact of that project (among other related factors such as profitability and market power) on the appropriate level of charges from 2029.

1.6 In the Second Consultation, the CAA has sought views from stakeholders on:

- (1) whether the CAA’s approach to assessing GAL’s proposals, including, in particular, the CAA’s assessment framework and whether the evaluation criteria against which the CAA has assessed GAL’s proposals, is appropriate, as described in Chapter 3 of the Second Consultation;
- (2) the areas of GAL’s proposal that the CAA considers require further mitigations (as highlighted in red and amber in the CAA’s RAG status in Chapter 4 of the Second Consultation) and whether the mitigations which the CAA has proposed are reasonable; and
- (3) any other issues that the CAA should consider as it finalises its assessment of GAL’s proposals.

1.7 easyJet’s responses to the first and second questions are set out in Annex 1 to this submission. easyJet’s response to the third question is set out in detail below. easyJet is grateful for the

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<sup>1</sup> OAG data for the period winter 2022 to Summer 2023

opportunity to provide its responses to the Second Consultation and remains committed to supporting the CAA with this process.

## 2 BACKGROUND TO THE CONSULTATION

### 2.1 Consultation background

2.1.1 In January 2014, the CAA concluded that GAL had significant market power (“SMP”) with respect to the provision of airport operation services to passenger airlines at the Airport<sup>2</sup>. The CAA noted in its market power determination that GAL could abuse its SMP “*through excessive pricing, inefficiency, inferior service quality or investment*”. GAL therefore holds a privileged position of SMP and the applicable economic regulation is of critical importance to ensuring that the interests of Airport passengers are protected.

2.1.2 Although GAL’s market power has not been reassessed by the CAA, as described further in this submission, easyJet considers that GAL’s SMP position has strengthened since 2014, which is why GAL is increasingly demonstrating the symptoms of this strengthened market power.

2.1.3 From 1 April 2014, GAL has been regulated by a set of “commitments”, included as conditions of GAL’s economic licence. The original commitments were set to expire on 31 March 2021. However, the CAA modified GAL’s Licence, including the commitments, in order to implement GAL’s proposed commitments for the period 1 April 2021 running to 31 March 2025 (the “**Current Commitments**”).

2.1.4 In March 2023, GAL notified the CAA of its proposal to extend the Current Commitments from 1 April 2025 to 31 March 2029 (the “**G7 Extension Period**”) with limited modifications in relation to: (i) a revised price cap of CPI-1% from 1 April 2025 – 31 March 2027 and CPI+0% from 1 April 2027 – 31 March 2029; (ii) maintenance of the investment commitment of £120m per year from 2019/20 to 2028/29 (on average, in 2018/19 prices); and (iii) a timetable and process to review the Core Service Standard (“**CSS**”) on Air Traffic Control (“**ATC**”) and Passengers with Restricted Mobility (“**PRM**”) performance (together, the “GAL Proposals”).

2.1.5 On 7 June 2023, the CAA published a consultation inviting views from stakeholders regarding the GAL Proposals<sup>3</sup> (the “**First Consultation**”). easyJet responded to the First Consultation on 2 August 2023, expressing easyJet’s concerns regarding: (i) GAL’s service quality; and (ii) that GAL’s charges allowed for excess profits. In light of this, easyJet requested that the CAA, as sectoral economic regulator, conduct a detailed assessment of GAL’s Proposals. On 9 August 2024, the CAA published the Second Consultation.

2.1.6 In the Second Consultation, the CAA notes that its initial assessment is that GAL’s proposals to extend the Current Commitments for a further four years are “*likely to be in the interests of consumers*”. This assessment is, however, subject to the following two conditions:

- (a) That GAL is able and willing to proceed with its plans for capacity expansion and the development of the Northern Runway. The CAA cites these factors as benefitting passengers, i.e. by moderating GAL’s incentives to raise charges (as it would be incentivised to fill new capacity) and allowing for new services from the Airport (which would promote customer choice). In the event that, during the extension period, GAL is either unable to continue with, or is unwilling to continue with, its capacity expansion plans, the CAA has stated that it would consider whether the commitments continued to

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<sup>2</sup> CAP1134

<sup>3</sup> CAP2554

sufficiently protect consumers' interests and thus if revised proposals (i.e. a change in the pricing commitment and subsequent licence modifications) should be brought forward.<sup>4</sup>

2.1.7 easyJet would welcome engagement by the CAA as to what is meant by GAL being "able and willing to proceed", both in terms of timing and scope of the project. In the event that GAL is either "unable or unwilling" to continue with the Northern Runway development project, easyJet would also welcome clarification as to: (i) the timescales in which the CAA will consider whether changes are required to the commitments; (ii) how the commitments would operate during any such review; (iii) the timescales in which any required changes would be implemented; and (iv) the work that the CAA has already undertaken in respect of assessing this alternative to date.

## 2.2 The CAA's approach to regulation of GAL since 2014

2.2.1 Notwithstanding that the commitments framework has been in place since 1 April 2014, the CAA has not conducted a full substantive assessment of whether the "light touch" model of economic regulation applied to GAL remains in the best interest of consumers.

2.2.2 easyJet acknowledges that the CAA has conducted limited reviews of the regulatory framework over this period, but as illustrated below the CAA has not completed its intended detailed reviews:

- (a) In December 2016, the CAA published its mid-term review of the commitments framework.<sup>5</sup> The CAA did not propose any specific changes to the commitments framework, but it noted the concerns on the progress of airfield investment projects and some aspects of GAL's relationships with airlines. In particular, the CAA noted that:
- (i) GAL was discussing with airlines its proposals to provide additional pier capacity and that the CAA had concerns about the time taken for GAL to bring forward plans in response to stronger than expected traffic growth and that if shortages did occur in the future "*this could lead to a deterioration in the service quality delivered to passengers, for example because a higher proportion might need to be served from remote stands and therefore face a bus transfer to or from the terminal*";
  - (ii) while airlines reported a good relationship with GAL at the commercial strategic and financial level there was "*much less positive feedback about relationships at the operating level. Airlines referred to GAL's withdrawal from AOC meetings, made a number of criticisms of the Operations Consultation Forum and reported cases where GAL responded defensively or abrasively when they attempted to raise issues*" and that there appeared to be "*a lack of genuine engagement with some of GAL's dealings with its airline customers at the operating level*"; and
  - (iii) while at that time there was no clear evidence of a significant passenger detriment arising from this situation, the CAA determined that "*over time, there will be a greater risk that emerging problems (or opportunities for improvement) will not be addressed and passengers' interests will be harmed*".
- (b) In June 2018, the CAA undertook a review in relation to the process and timetable for replacing the commitments and invited views on whether the commitments protected consumers' interests (such as quality of service, on-time performance, and value for money)<sup>6</sup>. The CAA indicated that it would carry out its own review and would need to be

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<sup>4</sup> CAP3012, paragraph 3.66.

<sup>5</sup> CAP1502

<sup>6</sup> CAP1684

content with the proposal for modifying GAL's licence by the end of 2020. However, no such review was conducted.

- (c) In October 2020, the CAA consulted on GAL's proposed modifications and extensions to the Licence but did not conduct a wider assessment of the general framework or whether the Framework operated in the best interests of passengers.
- (d) In June 2023, the CAA's First Consultation consulted on GAL's proposed modifications and extensions to the Licence but did not conduct a wider assessment of the general framework or whether the Framework operated in the best interests of passengers.

2.2.3 GAL is the only airport in the UK, designated as holding SMP, which is subject to what the CAA has recognised as a "lighter touch regulatory framework"<sup>7</sup>. No other regulated industry is regulated in this way (nor indeed does the CAA regulate other UK airports in this way). easyJet notes, by comparison, that:

- (a) The CAA conducts a full Regulated Asset Base based pricing model on Heathrow Airport Limited, which covers a regulatory period of 5 years;
- (b) Ofwat, Ofgem and the ORR, as regulators for the water and wastewater industry, energy industry and railway infrastructure, conduct periodic price reviews setting performance commitments and permitted charges for undertakers every 5 years;
- (c) Ofcom, which is the economic regulator for the telecommunications industry, typically conducts detailed "market reviews" every 5 years and historically conducted these market reviews every 2-3 years. These market reviews determine whether any communications provider ("CP") holds SMP over a given product or service, and imposes remedies on CPs with SMP to protect customers on an *ex ante* basis – for instance through glidepath price controls and/or prior regulatory scrutiny of contracts for provision of SMP products.

## 2.3 **Future Review**

2.3.1 As noted above, there are a number of issues and emerging trends at the Airport which merit further consideration by the CAA during the G7 Extension Period. In particular, easyJet has identified elements of the existing Framework (such as how GAL engages with airport stakeholders and invests in the Airport to best improve customer experience, operational resilience and to minimise delays) that easyJet considers would benefit from ongoing CAA engagement.

2.3.2 Other features of the Framework, including those relating to charges, capacity and GAL's market power and profitability, merit a full customary mid-term review to inform the framework for the Post G7 Extension Period.

2.3.3 Any such future review must be in accordance with the CAA's duties under the Civil Aviation Act 2012 (the "**Act**") and in accordance with the CAA's policies. In particular, the CAA must have regard to:

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<sup>7</sup> See for example paragraph 1.6 of CAP2554 (the "First Consultation")

- (a) The need to secure that all reasonable demands for airport operation services are met;<sup>8</sup>
- (b) The need to promote economy and efficiency on the part of each holder of a licence under this Chapter in its provision of airport operation services at the airport to which the licence relates;<sup>9</sup>
- (c) The principle that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent.<sup>10</sup>

### 3 GAL'S MARKET POSITION

#### 3.1 Market power

3.1.1 In January 2014, the CAA concluded that GAL had SMP with respect to the provision of airport operation services to passenger airlines at the Airport<sup>11</sup>. In reaching this conclusion, the CAA noted that GAL's SMP was likely to increase with the expected tightening of capacity constraints across the subsequent 5 years. In reaching this conclusion, the CAA considered that<sup>12</sup>:

- (a) Airlines are not able to credibly threaten to switch away from Gatwick to discipline GAL's pricing behaviour. This is the result of a number of factors including capacity constraints, presence of backfill and the credibility and effectiveness of alternative switching options. To the extent that there is marginal switching, it is of insufficient volume to discipline the Airport's behaviour.
- (b) Airlines preferred Heathrow Airport ("LHR") over the Airport, but there were high entry barriers at LHR due to capacity constraints that prevented switching.
- (c) Capacity in North London airports (Stansted ("STN") and Luton ("LTN")) was less preferred by airlines, because those airports did not have the combination of the Airport's facilities.
- (d) Airport expansion timescales were too far into the future to constrain short term pricing.

3.1.2 easyJet has re-assessed the factors that led to the CAA's original SMP conclusion, based on publicly available information. On a cautious basis, easyJet has widened the CAA's original methodology to consider whether STN and LTN, alongside LHR, provide supply-side substitutes for the Airport. This assessment has shown that the Airport's SMP position has strengthened since 2014.

3.1.3 easyJet reaches this conclusion on the basis that: (i) spare capacity at LHR is more scarce than in 2013, further limiting airline switching from the Airport; (ii) spare capacity at North London airports (STN and LTN) is also more scarce than in 2013, further limiting airline switching from the Airport; and (iii) Airport expansion has been limited and is unlikely to offer capacity-based switching opportunities in the short term.

#### 3.2 GAL's pricing and efficiency

3.2.1 The CAA has acknowledged in the Second Consultation that GAL may earn relatively high levels of profits. easyJet notes from the PA Consulting Report (provided by the CAA as part of the Second Consultation) that margins have increased significantly since the start of the "light-touch"

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<sup>8</sup> Section 1(3)(b).

<sup>9</sup> Section 1(3)(c).

<sup>10</sup> Section 1(4)(a).

<sup>11</sup> CAP1134

<sup>12</sup> Ibid. Para 2.5.

regulatory framework, with an 83% increase in operating margins between the last year of the RAB-based regulation in 2013 and an increase in net margins of 220% over the same period. easyJet also notes that margins under this “light-touch” regulatory framework have ranged between c.30% - 50% for operating margins and c.15-30% for net margins.

3.2.2 The CAA notes in the Second Consultation that if GAL is not able or is unwilling to proceed with its proposal in relation to the Northern Runway, then it is not clear that the level of prices and profits associated with GAL’s proposals would be in the interests of consumers and that in such a scenario it would be appropriate for the CAA to revisit the headline price reductions to ensure that these remained in the interests of consumers.

3.3 In paragraph 3.64 of the Second Consultation, the CAA notes that “*Under GAL’s proposed commitments, there is no direct pass-through of costs and so it [i.e. GAL] will bear the risks associated with planning, development and delivery costs associated with this project through the extension period*”. In this regard, easyJet notes that GAL’s CIP 2024 Consultation makes provision for: (i) £6.5m for Northern Runway Improvements; (ii) £10.8m for Northern Runway Development Consent Order and (iii) £595.7m for the Northern Runway Programme. However, since the CIP will be pre-financed through airport charges, and given that the additional capacity of the Northern Runway Programme matches the UK’s aviation growth forecast (such that GAL does not appear to bear significant risk in this regard), easyJet considers that the CAA’s conclusion that GAL “*will bear the risks associated with planning, development and delivery costs associated*” with the Northern Runway merits further analysis as part of the review of the Post G7 Extension Period framework.

3.3.1 easyJet recognises, as does the CAA does in paragraph 3.27 of the Second Consultation, that it is possible that some of GAL’s profitability may be explained by efficiency of the costs incurred. easyJet notes, however, that the CAA has not indicated the level at which it would consider a profit to be so in excess of a reasonable return that it is excessive, or indeed what the reasonable level of return for a regulated entity with SMP would be.

#### 3.4 **GAL’s service levels and customer expectations**

3.4.1 easyJet is anxious to ensure that GAL’s high profits translate into investment directed at high service levels for customers and improved passenger experience. easyJet has raised a number of specific concerns in this regard with GAL in its response to GAL’s consultation on the Capital Investment Programme 2024 (“CIP 2024”).

### 4 **GAL’S PROPOSALS ON CSS AND THE INVESTMENT COMMITMENT**

#### 4.1 **GAL’s Core Service Standard (“CSS”)**

4.1.1 GAL’s proposals in respect of the CSS are limited to the introduction of a timetable and process to review service quality metrics and targets. There are two specific changes to be considered as part of this review relating to: (i) air traffic control performance at Gatwick; and (ii) the introduction of financial incentives regarding arrival waiting time performance of special assistance services.

4.1.2 easyJet notes that the current review of quality metrics and targets began in 2023 and remains on-going. easyJet provides the CAA with an update on this review below.

4.1.3 A “Runway Availability” CSS metric is currently in operation. However, in recognition that this does not capture the impacts of local air traffic disruption, GAL proposes the introduction of a new CSS for air traffic control performance at the Airport based on deferred movements. Whilst discussions are ongoing, there have been recent, positive steps.

4.1.4 In relation to waiting time performance of special assistance services, the ACC and GAL are still not agreed on a new CSS metric based on arrival targets. While easyJet recognises that good pre-

notification rates by airlines enhances the quality of special assistance delivery, easyJet is concerned that the measure of minimum level of airline pre-notifications could be unduly affected by the performance of a single airline on pre-notification. For example, if one airline missed the pre-notification requirement for a single flight, this would bring down the average pre-notification rate across the **entire** airline community at the Airport, potentially resulting in GAL avoiding rebate payments to airlines that have been compliant with their notification obligations and suffered service failures.

4.1.5 More generally, easyJet has concerns with the efficacy of the CSS. In particular, easyJet is concerned that (i) not all relevant core services are included within the CSS and (ii) the existing CSS targets are not sufficiently challenging. easyJet will continue to engage with GAL, the ACC, the CAA and other stakeholders in this regard with a view to driving good outcomes for its passengers.

4.1.6 While all airlines at the Airport want to further the interests of passengers, it is not always possible as independent commercial operators to reach consensus on important matters which impact passengers at the Airport, particularly in circumstances where GAL imposes tight deadlines to respond to consultations. For example, members of the ACC have not been able to reach agreement on certain metrics as part of the CSS review. easyJet considers that CAA engagement during this process (along with its attendance at ACC meetings) encourages the airlines and GAL to work closely together in the interest of passengers. CAA attendance would enable it to have a clear understanding of the shortcomings of the current consultation processes, as well as more broadly, the nature of discussions, the pathways that are closed and opened in the meetings, and how all parties arrive at final positions.

#### 4.2 **Maintenance of the investment commitment of £120m per year over the year years from 2019/20 to 2028/29 (on average, in 2018/19 prices)**

4.2.1 Aside from the Covid-19 pandemic years, GAL appears to have met the minimum capex investment under the commitments, and GAL's proposal is that the investment commitment is unchanged at an average of at least £120 million per year (in 18/19 prices), the average to be assessed over the ten years from 2019/20 to 2028/29. easyJet has raised certain concerns as to the allocation of investment (and the procedure for consultation) in its response to GAL's CIP Consultation. Considerations in relation to the Northern Runway development project are set out further at section 5 below.

4.2.2 Albeit easyJet does not oppose the level of GAL's investment proposal for the G7 Extension Period, easyJet respectfully submits that there would be merit in considering further the framework and level of GAL's investment as part of the CAA's consultation and review for the economic regulation of GAL in the Post G7 Extension Period

### 5 THE NORTHERN RUNWAY

5.1 The CAA has stated that if GAL not able or willing to continue with its expansion plans, or is not making good progress with capacity expansion, then given the high profits achieved by GAL:

- (a) *"it would be appropriate to revisit the headline price reductions during the new commitment period to ensure the overall package proposed by GAL remains in the interests of consumers"; and*
- (b) *that the CAA's present view is that GAL "should enter new discussions with airlines in a timely way and, if appropriate, bring forward new proposals for its pricing commitment. [the CAA] would keep GAL's progress with its plans for the northern runway project under review. If it appeared that GAL was not able or willing to continue with its plans for the northern runway, [the CAA] would also consider if changes to the pricing commitment would be appropriate to protect the interests of consumers".*

- 5.2 The Second Consultation does not provide any further detail to stakeholders regarding: (i) the charges which the CAA would consider to be necessary should the Northern Runway not proceed, (ii) the timetable for the review of the pricing commitments in this eventuality, (iii) the timescales in which it anticipates any necessary changes to be made; (iv) the work that the CAA has undertaken to date in assessing the potential changes needed; or (v) the consequences of the pre-financing on consumers should GAL not be willing or able to complete the Northern Runway project.
- 5.3 The CAA expects GAL, having entered into discussions with the airlines, to put forward new proposals for a pricing commitment should the Northern Runway not proceed<sup>13</sup>. However, the CAA has not indicated to stakeholders or GAL any further detail in this regard.
- 5.4 The decision of the Planning Inspectorate for the Development Consent Order regarding the Northern Runway is expected by 27 November 2024 and the decision from the Secretary of State is expected in early 2025. If the Northern Runway is not permitted to proceed, it would appear unlikely that there would be sufficient time for the CAA to conduct a further review on the appropriateness of the pricing commitment before the proposed extension of the Current Commitments comes into effect on 1 April 2025. easyJet would welcome further information from the CAA as to how it would address this eventuality.
- 5.5 More generally, easyJet has a number of concerns with GAL's Northern Runway proposal. One such concern is that whilst the Northern Runway will increase capacity at the Airport, it does not appear to easyJet that it will solve a number of issues at the Airport identified in easyJet's CIP Consultation response (high levels of customer delays resulting from congested airspace and an inability to deal with current capacity, along with poor customer terminal and gate experience) and indeed may well compound these further. easyJet's wishes to ensure that investment into ensuring that the *existing* customer experience, operational resilience and high delay environment is not deprioritised as a result of the Northern Runway project. easyJet welcomes the opportunity to continue to engage with GAL, the CAA and other stakeholders in this regard.
- 5.6 easyJet is **not opposing** the CAA's position on allowing GAL's airport charges. However, easyJet wishes to be transparent with the CAA as to its concerns, including so as to inform the approach to the review of the framework for the Post G7 Extension Period.

## 6 INFORMATION TRANSPARENCY AND AIRLINE ENGAGEMENT IN GAL CONSULTATIONS

- 6.1 easyJet considers that GAL's dealings with airlines, not only in formal consultation processes but also as part of its day-to-day operational and commercial dealings have room for improvement. In particular:
- (a) The level of detail which GAL provides to airlines can be inadequate and does not allow those airlines to meaningfully engage with GAL's proposals;
  - (b) GAL can fail to take account of the views of airline operators;
  - (c) Consultations often fall during the summer months (which is one of easyJet's busiest periods of the year), where key decision makers are most stretched, and are often for very brief windows of time. This does not allow for effective consultation to take place, nor does it allow stakeholders to have sufficient time to respond to consultation documents, prejudicing the ability of both GAL and the airlines to advance the best interests of their customers.

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<sup>13</sup> Paragraph 4.20 of the Second Consultation

- 6.2 easyJet recognises also that the airlines themselves have a responsibility to support effective consultation, and, for example, are taking steps to improve the operation of the ACC. easyJet welcomes the CAA's engagement in this regard and intends to keep the CAA appraised.

***The obligations on GAL to consult with airline operators***

- 6.3 Under the existing regulatory framework GAL is required to consult on a number of matters which are of critical importance to both airlines and their customers before those measures are implemented. These include:

- (a) Special assistance charges;<sup>14</sup>
- (b) Contingency aircraft de-icing stock charges;<sup>15</sup>
- (c) GAL's operational resilience plan<sup>16</sup> which is intended to set out how GAL will operate an efficient and reliable airport to the levels required under the Core Service Standards and how GAL will ensure the continuity of airport operation services, particularly at times of disruption. GAL is required to consult with airlines on its plans "*in a fair and timely manner providing consultees with an adequate level of information*";
- (d) Punctuality performance;<sup>17</sup>
- (e) GAL's proposed CIP<sup>18</sup>. Before publishing its CIP, GAL must consult with the ACC and with the PAG to address amongst other things the principal business drivers behind the airport's development strategy, including service levels, and the cost of the capital investment programme. The forecasted cost of the CIP must also, amongst other things, "*summarise expenditure on each of the Major Projects*", "*be at a level of detail that reflects the planning horizon and Tollgate status for projects, with those in the short term being more granular and certain than those in the final years of the forecast*" and "*provide an explanation as to any material differences between the latest forecast and the prior year forecast*";
- (f) GAL's proposed annual charges.<sup>19</sup>

***The level of detail provided to airlines is often inadequate***

- 6.4 GAL has recently consulted on its CIP for 2024. GAL issued the CIP 2024 Consultation on 22 July 2024 and requested a response to this consultation by 31 August 2024. easyJet was granted a short extension to 9 September 2024. A copy of easyJet's response to the CIP 2024 Consultation is provided to the CAA under separate cover to this submission, but easyJet draws the CAA's attention to the following issues:

- (a) The level of detail provided was insufficient for easyJet to assess GAL's consultation on its CIP 2024 investment proposals in a meaningful way, particularly in terms of customer benefit and operational output. As an illustrative example, the section of the CIP 2024 on efficiency<sup>20</sup> lacks supporting detail or clear objectives and is heavily caveated

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<sup>14</sup> Paragraph 3.4.5 of the CoUs

<sup>15</sup> Paragraph 3.4.16 of the CoUs

<sup>16</sup> Paragraphs 7.2 and 7.3 of the CoUs

<sup>17</sup> Schedule 3, paragraph 8.2.3 of the CoUs

<sup>18</sup> Paragraph 8.3 of the CoUs

<sup>19</sup> Paragraph 10.2 of the CoUs

<sup>20</sup> CIP 2024 Consultation, page 26.

throughout<sup>21</sup>. easyJet has not been provided with clarity on the following matters which are of critical importance: (i) the critical infrastructure or operational areas that require investment and upgrades; (ii) the specific improvements or enhancements that these investments aim to deliver; and (iii) the anticipated impact on key performance indicators such as quality of service, safety standards and OTP.

- (b) The CIP 2024 Consultation provided only a high level “indicative timeline” for some of the Major Projects at the Airport, including Pier 6 and taxiway Lima. easyJet only received a document showing the timelines for major project works on 4 September 2024 shortly after easyJet’s original deadline for responding to the CIP 2024 Consultation. As a result of the late provision of this information, it was not possible for easyJet to consider as part of its response to the CIP 2024 Consultation whether the timescales proposed were reasonable or to assess whether key milestones might fail.
- (c) easyJet has requested that GAL provides further information to easyJet, including greater granularity and detail in respect of the proposed investments or material changes to proposed investments. At the time of submitting this response, easyJet has not received a substantive response to this request.

***GAL has often not addressed the views of airline operators***

- 6.5 In the context of the Pier 6 western extension, the CIP 2024 Consultation highlights that there is an extra spend of £14 million over the 2023 CIP for 95% Pier Service project. The reason for this increase is unclear, but it appears that it may be linked to a delay to implementation of this project. Whilst this investment is vital and encouraged by easyJet, the CIP 24 Consultation makes no reference to the fact that the scope of this project has been scaled back. This design change was presented to the airlines, but was not formally consulted upon.
- 6.6 We believe these changes (for instance the change from head of stand to back of stand roadways) to be detrimental to operational performance and customer experience, and it is a move that the airlines have not supported. Further, the CIP 24 Consultation notes that the Pier 6 Western extension “*will provide large, open gate-rooms*”. This is despite airlines providing feedback (and demonstrating to GAL via walkthrough trials) that open gate rooms risk being detrimental to both customer experience and OTP.

***easyJet sees merit in an improved framework for consultation on operational matters with airline operators***

- 6.7 easyJet considers that GAL and the airlines would benefit from greater clarity as to the framework for consultations. easyJet therefore requests that the CAA provides further guidance in this regard. For example, this could include best practice considerations such as: (i) the threshold for consultation; (ii) ensuring that consultees are put in a position to properly consider and respond to the consultation request and to make informed responses; (iii) allowing a reasonable period for making representations; and (iv) a requirement for GAL to explain its assessment of representations made. easyJet submits that this would have improved the process described above, for example, in relation to engagement between GAL and the airlines on CSS.
- 6.8 In order for the airlines and the CAA to monitor GAL’s compliance with the commitments and to inform and allow the CAA to intervene in a timely manner should it need to do so, easyJet also considers that GAL should disclose the following information to airlines: (i) a capital investment programme update that identifies recent spending on projects, future project budgets and any

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<sup>21</sup> For example, stating “*We look at where efficiencies can be made through developing innovative processes, which may necessitate capital investment to realise them*”; “*Trials of the next generation of this technology will potentially lead to further efficiencies*” and “*automation of baggage handling which may offer manual handling, capacity and resource benefits*”.

project budget changes; (ii) traffic adjustments and forecasts for the remaining years' commitments; (iii) detailed overviews and updates on CAPEX, OPEX, the Regulated Asset Base, Weighted Average Cost of Capital and depreciation, (iv) profit statements for core services, other services and commercial activities; (v) the level of commercial contribution to charges and performance information and forecasts on the average revenue per passenger *following bilateral agreements* entered into between GAL and the airlines.

6.9 This is one of the key reasons that the airlines, in an effort to improve their own interactions with the CAA, GAL, and other airports, have commissioned an external audit of the governance, processes and interfaces of the ACC and AOC. This has led to a programme of change that is currently being rolled out and easyJet looks forward to continued engagement with the CAA and GAL in this regard. easyJet remains hopeful that the outcomes of this audit will lead to the changes required to consultation processes (as set out above) being implemented by all parties concerned.

## 7 CONCLUSION

7.1.1 easyJet reiterates that it does not oppose GAL's proposals for the G7 Extension Period in this consultation response. However, easyJet has identified elements of the existing Framework (such as how GAL consults with airlines and invests in the Airport to best improve customer experience, operational resilience and to minimise delays) that easyJet considers would benefit from ongoing CAA oversight.

7.1.2 As noted above, easyJet considers that review by the CAA of the appropriate framework for the Post G7 Extension Period is likely to require materially more time than the period afforded to this Second Consultation (in part given the number of procedural steps that the CAA is required to take, the emerging trends noted above as regards market power and profitability, and the greater clarity there will be regarding the Airport's future capacity). Such a review should provide time to undertake detailed and robust economic assessment and to carry out wide consultation with stakeholders to ensure that the framework delivers appropriate outcomes in the interests of customers. easyJet respectfully suggests that such a review for the Post G7 Extension Period should commence during H1 2027. For the avoidance of doubt, easyJet is not suggesting that such a review would impact on GAL's proposed commitments for the G7 Extension Period.

7.2 In the event that GAL is either unable or unwilling to continue with the Northern Runway development project, easyJet would welcome confirmation of: (i) the timescales in which the CAA will consider whether changes are required to the commitments; (ii) how the commitments would operate during any such review; and (iii) the timescales in which any required changes would be implemented; and (iv) the work that the CAA has already undertaken in respect of assessing this alternative.

7.3 easyJet will continue to work with GAL and the AOC/ACC to improve consultation processes, to ensure that GAL provides sufficient information to airlines, which would allow airlines and the CAA to better engage with and monitor GAL's performance against its commitments. easyJet would welcome the engagement of the CAA and GAL on these initiatives.

## Annex 1 – easyJet’s Responses to Consultation Questions 1 and 2

### 1 THE CAA’S APPROACH TO ASSESSING GAL’S PROPOSAL, IN PARTICULAR, THE CAA’S ASSESSMENT FRAMEWORK AND WHETHER THE EVALUATION CRITERIA AGAINST WHICH IT HAS ASSESSED GAL’S PROPOSALS ARE APPROPRIATE.

1.1 easyJet makes the following comments:

(a) the CAA’s RAG rating for prices, profits and capacity is green in the circumstances where GAL proceeds with capacity expansion. *easyJet supports the CAA’s assessment of GAL’s proposal but has brought to the CAA’s attention a number of points that it considers merit further review in advance of the Post G7 Extension Period, including in respect of GAL’s pricing, profits and capacity.*

(b) the CAA’s RAG status for quality of service is amber and the CAA notes that GAL is to provide an update on progress towards agreeing new service standards with airlines and proposals to improve passenger seating.

(c) the CAA notes “*significant concerns about the quality of the data that GAL is collecting on passengers requiring special assistance and possible issues and difficulties with the level of its service performance in periods of high service demand*”.

*In respect of sub-paragraphs (b) and (c) above, easyJet welcomes ongoing CAA engagement such that the shortcomings identified can be addresses.*

(d) the CAA’s RAG rating for environmental performance is green. *It is not entirely clear to easyJet how the CAA has reached this conclusion, but it appears that the evidence highlighted by the CAA in paragraph 4.16 reflects, for the most part, future aspirations that GAL has not yet attained.*

### 2 THE AREAS OF GAL’S PROPOSALS THAT THE CAA CONSIDER REQUIRE FURTHER MITIGATIONS (AS HIGHLIGHTED BY AMBER AND RED RAG RATINGS) AND WHETHER THE MITIGATIONS PROPOSED ARE REASONABLE

2.1 As we have explained in section 5 above, the Second Consultation does not provide any further detail to stakeholders regarding: (i) the charges which the CAA would consider to be necessary should the Northern Runway not proceed, (ii) the timetable for the review of the pricing commitments in this eventuality, (iii) the timescales in which it anticipates any necessary changes to be made; or (iv) the work that the CAA has undertaken to date in assessing the potential changes needed. easyJet would welcome further information on these points.

2.2 In relation to quality of service and support for passengers requiring special assistance, the CAA notes that “*GAL should take steps to ensure that its various performance measures of special assistance services are demonstrably accurate. It should also demonstrate it has credible plans, including in terms of appropriate levels of operational resources and investment, that ensure its special assistance services continuously meet GAL’s legal obligations*”. The CAA also notes that it expects GAL to provide an update on “*proposals to improve passenger seating*”. easyJet would welcome further guidance as to:

(a) how the CAA intends to test the accuracy of the information provided by GAL in relation to its performance measures of special assistance services;

(b) what information the CAA requires from GAL in order for it to “demonstrate it has credible plans” in relation to the special assistance services;

- (c) the steps that the CAA intends to take if GAL does not take adequate steps to demonstrate that its performance measures are accurate;
- (d) the steps that the CAA intends to take if GAL does not demonstrate such “credible plans”;  
and
- (e) how and when the CAA intends to review GAL’s proposals to improve passenger seating and the steps that the CAA intends to take if GAL’s proposals are not considered to be adequate.