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easyJet Submission on CAP3238 - Regulatory treatment of early expansion costs

Dear Sir or Madam,

easyJet submits this response to the Civil Aviation Authority's (CAA) consultation on the proposed regulatory treatment of early expansion costs at Heathrow Airport Limited (HAL) (CAP3238). This submission is made in easyJet's capacity as the largest UK airline and as a prospective entrant at Heathrow, contingent on the availability of additional capacity.

Heathrow's scale, extensive cost base, national importance and substantial market power mean that it should not be assessed in isolation. Decisions at Heathrow have the potential to directly shape airline route planning, drive competitive dynamics among carriers, and influence investor decisions. By the advancement of a Heathrow-specific, ad hoc approach in parallel with an ongoing review of the system-wide framework, there is a risk that the conclusions of that review could result in these being pre-determined for other airports.

As set out in our response to CAP3191, easyJet supports the establishment of a single, principled national framework, applied proportionately to reflect the market power of individual airports. In that context, easyJet considers that market-based financing delivers more efficient outcomes than regulatory financing. The regulatory financing of airport costs would require consumers to fund development risk in advance of delivery. Permitting the recovery of sunk costs in this manner is a deviation from the UK established policy for airport infrastructure.

Without prejudice to our position on the market-based financing of airport infrastructure, easyJet considers that, where regulatory financing is contemplated, any final determination should be guided by a clear and nationally applicable set of minimum prerequisites, in order to ensure consistency with effective consumer protection and sound regulatory principle. Set out below are the four minimum conditions that, in easyJet's view, should apply to regulatory financing.

Condition 1: Clear, firm and enforceable objectives and obligations

Any approval of regulatory financing should be underpinned by a clear and firm set of objectives and enforceable obligations to which the airport operator is required to commit. These should include, at a minimum, defined expectations in relation to scope, cost control, delivery timelines, transparency, and accountability. Such objectives and obligations should be sufficiently precise to allow effective regulatory oversight and enforcement, and to ensure that regulatory financing is transparent and demonstrably operates in the interests of consumers.

Condition 2: Binding and non-revisable cost cap

As a general principle, any approved cost cap associated with regulatory financing should be binding and not subject to upward revision. Such caps should be capable of adjustment only in a downward direction, for example to reflect efficiency gains or changes in scope. This approach would provide essential certainty for consumers, ensure effective cost discipline, and mitigate the risk that regulatory financing weakens incentives for rigorous cost control once approval has been granted.

Condition 3: Automatic reversal in the event of project non-delivery or material change

Where regulatory financing is approved in advance of project delivery, robust and automatic protections should be in place to safeguard consumers in the event that the underlying project is refused, materially delayed, or materially altered. An automatic and full clawback of all funds, including interest, represents the only credible safeguard against the transfer of project risk from the operator to consumers.

Condition 4: Exclusion from the RAB and adjustment of allowed returns

Since regulatory financing materially reduces or removes investment risk from airport operators, the regulatory framework should ensure that allowed returns are adjusted accordingly. In particular, costs recovered early through regulatory financing should not be included in the RAB or be rewarded with a WACC. Returns should reflect risks actually borne, and not reward operators for risks that have been transferred to consumers.

easyJet remains committed to constructive engagement with the CAA to support the development of regulatory approaches that are robust, transparent and demonstrably in the best interests of consumers, and would welcome further dialogue in that context.

Yours faithfully,

Marco L. Gatti

Head of Regulatory - Airport and Air Navigation Services

easyJet Airline Company Limited