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**Re: Airline community response on CAA's Draft Decision on the regulatory treatment of early costs of capacity expansion at Heathrow airport (CAP3238)**

This submission is the Heathrow airline community's response to the CAA's Draft Decision on the regulatory treatment of early expansion costs at Heathrow ("the Draft Decision"), CAP3238 ("the Consultation"), issued on 20 April following the two previous consultations in Aug/Sep 2025 (CAP 3149) and Dec 2025/Jan2026 (CAP 3201) to which we (the airline community) responded.

The submission is made jointly by the London (Heathrow) Airline Consultative Committee ("LACC"), Heathrow Airline Operators Committee ("AOC"), and the International Air Transport Association ("IATA") and should be read alongside individual airlines, groups and alliances' own submissions, as well as our responses to the previous consultations referenced above.

## 1. Summary

- As stated in our response to CAP3201, the airline community remain supportive of an affordable expanded Heathrow but this must be executed in a manner that is in the interests of its customers; both airlines and consumers.

- However, the airline community continues to strongly and fundamentally oppose any policy that means airlines, and ultimately consumers, are pre-funding consent costs, including early enabling and property purchase costs incurred by Heathrow Airport Limited ("HAL") and any other promoter in preparing their proposals for Heathrow expansion.

- We are extremely disappointed that the CAA has chosen to disregard our Primary Position as set out in response to CAP3201 and restated below in Section 2 : namely that the CAA's Proposals be withdrawn, because of serious failings with both the apparent lack of substantive assessment and engagement on the materially stronger safeguards proposed, and a truncated process which has been undertaken in isolation of materially related consultations and ongoing development of the CAA's policies for both H8 and the Regulatory Reform of Heathrow. These process concerns are covered in Section 4.

- As set out further in Section 3, our concerns are only further heightened given the developments set out in the Draft Decision; namely HAL's costs for expansion – on which airlines have already raised concerns – are at the lower end of an independently benchmarked range and could be materially higher, as assessed by the CAA's advisors Steer; and the CAA having yet to re-evaluate and assure the benefit to consumers, which has been the material driver for the Draft Decision. Furthermore, the CAA have confirmed it has widened the scope to now include Property and Early Enabling costs, taking the magnitude of "early costs" to an estimated £6bn before DCO approval [1]

- Whilst the Draft Decision introduces certain safeguards, it does not remedy the fundamental issues previously identified, and in several respects further entrenches them by retaining a framework that transfers risks away from Promoters and onto consumers. This is all the more concerning given that there remains much uncertainty regarding the costs and benefits of Heathrow expansion. It is therefore right that the CAA is undertaking a "targeted review of the available evidence" on the business case for expansion[2] as covered further in Section 3.

- In the meantime, the airline community re-iterate that the most effective framework for ensuring true cost discipline incentive and consumer protection is to establish a risk-based framework with cost recovery contingent on DCO approval.

- Without prejudice to the above positions, and further comments within this response, the inadequacies in the framework proposed in the Draft Decision must not set a precedent for the assessment of early expansion costs for 2027 and beyond, on which the CAA will be separately consulting. We set out in Section 5 the key safeguards that must form the basis of such consultation, namely:
    - Ex-Ante cost control
    - Binding and enforceable cost caps
    - Genuine independence of assurance
    - Appropriate risk allocation
    - Clear and enforceable clawback and write-down mechanism
    - Avoidance of pre-determined outcomes
    - Clear expectations and roles, and the addressing of information asymmetry and transparency Issues

## 2. Primary Position

The airline community's primary position remains clear and unchanged: Pre-DCO (Development Consent Order) expansion costs should not be recoverable from airlines and consumers prior to DCO consent.

However, the Draft Decision proposes to allow HAL to recover efficiently incurred early costs up to a cap of £320 million (2024 prices) relating to planning, design and preparatory work for expansion.

While the CAA presents this as a proportionate and necessary step to facilitate timely expansion, the airline community maintains that this approach is fundamentally flawed for several reasons.

- First, it transfers commercial and planning risk from promoters to consumers, which is inconsistent with well-established regulatory principles. Promoters should bear the costs and risks associated with developing speculative infrastructure proposals until such time as those proposals receive formal approval.

1 CAP3238 para 1.11
2 CAP3238 para 1.30

- Second, the Draft Decision pre-judges the case for expansion by allowing cost recovery in advance of any robust and independent assessment of whether expansion delivers net benefits to consumers. We would also reiterate that consumers are already paying higher charges given significant expenditure on previous expansion related programmes , specifically the £500m previously added to HAL's Regulated Asset Base in April 2021[3], for recovery from H7, in respect of the previous expansion plan, which is practically identical to HAL's current proposals.

- Third, by enabling cost recovery at this early stage, the CAA risks undermining cost discipline and incentivising inefficient expenditure, particularly in the absence of robust ex-ante controls.

**For these reasons, the airline community continues to firmly believe that the correct regulatory approach remains that there should be no early recovery or consumers' pre-funding of costs incurred by any Heathrow developer prior to DCO consent.**

## 3. Developments since CAA CAP3201

Since the publication of CAP3201 and the airline community's January 2026 response, a number of material developments relating to costs, regulation and the political landscape have taken place, which further strengthen our concerns regarding the approach adopted in CAP3238:

### 3.1 Substantial Increase in Cost Uncertainty and Risk

Since the last consultation was published in December more information has become available that **casts further doubt on the reliability of HAL's estimates of expansion costs**:

- Firstly, the CAA has published alongside CAP3238 an independent report by Steer assessing the technical feasibility and cost efficiency of Heathrow's expansion plans. This report highlights significant uncertainty regarding both the cost and deliverability of expansion. The findings are discussed below.

- Secondly, HAL's own estimates of pre-DCO costs have proved to be unreliable. The CAA is right to have rejected HAL's bid to increase 2025/2026 early cost charges to £450m, but we note that HAL have now estimated that total pre-DCO costs could be as much as £6bn [4], much higher than equivalent pre-Covid estimates. These only **reinforce the need for much stronger controls on early costs than are proposed by the CAA in the Consultation**

#### 3.1.1 Steer Report

The Steer report contains a number of important findings. While both promoters publicly present their schemes as affordable and deliverable, the Steer report concludes that **both cost estimates are early stage, optimistic, and subject to material upside risk.** Furthermore, both schemes contain limited contingency, and understate the risks associated with delivery, scope and surface access

The implications therefore are that airlines and consumers face significant cost risks and rise to charges and reinforces the need for strong protections, clear limits ahead of design certainty and consent, and ensuring

3 https://webarchive.nationalarchives.gov.uk/ukgwa/20230601102236/https://www.caa.co.uk/news/economic-regulation-of-heathrow-airport-limited/
4 CAP3238 para 1.11

the risk lies with the Promotors with true incentives that do not simply reward spending and have stringent safeguards in place, such as truly independent assurance and transparency.

### 3.1.2 Increasing early cost estimates

At the same time, HAL's own evolving estimates and broader industry analysis indicate that **the scale of early-stage and preparatory costs is increasing materially**, with potential early-phase expenditure now understood to reach unprecedented levels (HAL estimate up to £[redacted]) as scope expands beyond initial assumptions.

**Airlines have not to date been presented with a credible and comprehensive estimate of Pre-consent costs:** £[redacted] pre-consent costs were tabled by HAL to CAA in Nov 2025 – this mentioned in para 1.1 but no further detail has been provided (HAL data in Steer report redacted). A breakdown is urgently required.

- Steer Appx D Table 2.1 has a cost table including "Obtain Consent" heading from HAL, but figures are redacted.
- Unfortunately Steer for their own estimates have re-categorised the spend so there is no heading for "Obtain Consent"
    - For "DCO", Steer estimates wide range £167m-£727m (2024 TPI) (Appx D p30)
    - For "Land Acquisition", Steer have £4.0-4.8bn (p28), but it is uncertain how much of this pre-consent.

This evolution is critical. The Draft Decision focuses on a £320m cap for 2025–2026; however, this figure represents only a small proportion of the total early-stage cost exposure. The wider trajectory of costs suggests that:

- The £320m allowance is likely to be only the first step in a materially larger funding envelope – indeed HAL are already seeking to increase to £450m[5]; and
- Approving recovery now creates a precedent that will be relied upon in future decisions.

In this context, the Draft Decision significantly understates the true scale of risk being transferred to consumers.

### 3.1.3 Cost escalation: lessons from HS2

The history of the HS2 project reinforces the risk around cost escalation with Heathrow expansion. Responding to the forthcoming Lovegrove Report, the chair of the Transport Committee, Ruth Cadbury, has stated that from the start "*there was such an urgency from politicians of the time to get on with it*" that the full specification of the project and all the risks associated with it had not been calculated.[6]

The airline community have previously raised concerns of decisions being made to support the expediency of a Government led timetable for expansion; in light of both the recently published above learnings and the

5 CAP3238 para 3.5

[6] BBC.co.uk news "HS2 failings blamed on high-speed focus and political pressure" 18.5.26

current political uncertainty, these developments raise further concerns on the appropriateness of the approach being taken in the Draft Decision.

**3.2 Continued Absence of Independent Consumer Benefit**

The airline community is particularly concerned that the CAA continues to advance cost recovery proposals in the absence of a complete and independent assessment of consumer benefits, as recognised in the Draft Decision which references ongoing work by the DfT and CAA to establish the economic case and consumer benefits of Heathrow expansion. [7]

While the Draft Decision references the importance of enabling expansion to deliver future benefits, there remains:

- No confirmed view on whether expansion delivers net consumer benefit,
- No clear linkage between costs being approved today and demonstrable consumer outcomes.

This represents a fundamental sequencing issue. In any robust regulatory framework, **costs should only be approved once benefits are clearly established and independently verified**. The current approach reverses this logic by allowing costs to proceed in advance of benefits being proven and appears to be driven by a timetable that has been set without verification of the economic or consumer business case.

We therefore welcome that CAA undertakes review the cost-benefits of expansion before final decision. It is critical that the review is completed and published for review before any decisions are made to award HAL or HWL early costs.

**3.3 Cost Escalation and Scope Expansion**

Experience to date, including previous Heathrow expansion proposals, demonstrates a consistent pattern of cost escalation and scope expansion over time.

CAP3238 confirms that recoverable early costs include:

- Planning activity,
- Technical design, and
- Preparation for a future DCO application.

These categories are inherently broad and prone to expansion. Without strict and enforceable constraints, there is a clear risk that:

- The definition of "early costs" continues to widen,
- Cost estimates increase over time, and
- Consumers are progressively exposed to higher levels of risk.

All of which we have seen materialise since the CAA begun consulting on this matter in August 2025[8].

HAL's attempt to raise 2025/2026 early costs to £450m shows how uncertain and immature their estimates are.  We welcome the CAA's decision not to allow this additional amount to the proposed cap; our

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7 CAP 3238 paras 1.29,  1.30

8. CAA, Heathrow Capacity Expansion – consultation on regulatory policy on early costs, CAP 3149, August 2025

understanding is that the CAA has assessed this variance and determined that it is not required, therefore it should not be permitted to be brought back to the table at a later date. The CAA should be explicit on this.

**3.4 Alternative Promotors**

Since the publication of the Draft Decision, as of 15th May 2026 the CAA has since published its shortlist on proposed future regulatory models for Heathrow [9] in which one of the shortlisted options relates to Direct Competition for Airport Operation Services, having been assessed by the CAA as "*the potential to deliver significant consumer benefits"* [10]. However, the CAA go further on to say that *"implementation of this model would be dependent on the (alternative) developer obtaining the necessary land."* [11.]

By allowing HAL the ability to recover early costs associated with land acquisition sets a clear incentive and risk that such model, and alternative schemes, will be prevented from being realised as a result of this Draft Decision.

## 4. Process Concerns

The airline community continues to have significant concerns regarding the process adopted by the CAA, many of which remain unresolved in CAP3238. These are set out below.

**4.1 Timing and Perception of Pre-Determination**

Despite extensive stakeholder feedback provided through earlier consultations, the Draft Decision arrives at policy decisions that are largely consistent with previous proposals and fails to adequately address the arguments put forward by airlines. This raises concerns that stakeholder input has not been substantively considered, and the outcome has been effectively pre-determined.

In our view the timescale for determining policy on early expansion costs has been compromised, with short consultation periods, and a lack of credible timescale for CAA to incorporate feedback. The CAA premise has been this is required to meet timetable set by Government and Promoters would not otherwise be incentivised, yet again we have continued to see proposals being developed in advance of any Draft Decision.

Further, the Draft Decision does not appear to have fully engaged with the points raised in our response to CAP3201. The table in Appendix 1 compares our key asks in the CAP3201 response with the CAA's Draft Decision. Such an approach risks undermining confidence in the regulatory process.

**4.2 Fragmented and Overlapping Regulatory Framework**

CAP3238 is being progressed alongside a range of other major regulatory processes, including:

- The H8 price control review;
- Broader CAA regulatory reform of Heathrow; and
- Ongoing Government policy development and CAA assessment on expansion.

9 CAA, CAP3251 Heathrow capacity expansion – consultation on a shortlist of regulatory models
10 CAP3251 para 1.52
11 CAP3251 para 1.54

This creates a highly fragmented landscape in which key decisions are being taken in isolation rather than as part of a coherent whole.

In addition to the points raised in 3.4, by way of further example of these overlapping issues being addressed in isolation by the CAA, the airline community is engaging with the CAA on why the current system of capital governance and incentive framework is not fit for purpose and requires fundamental change for H8 and beyond. Given H8 is the period when most early expansion costs will be incurred it is critical to ensure alignment on these matters.

**4.3 Failure to Assess Cumulative Consumer Impact**

Critically, the CAA has not undertaken a holistic assessment of the combined impact on consumers of:

- increasing airport charges under H8
- Early expansion cost recovery, and
- Full expansion capital expenditure.

Without such an assessment, **it is not possible to determine whether the overall framework is affordable, proportionate, or consistent with the CAA's statutory duties.**

## 5. Without Prejudice – Requirements for 2027 and Beyond

Without prejudice to the airline community's primary position, that consumers should not be paying in advance for services which are to be delivered in the distant and uncertain future, it is essential that the regulatory framework for 2027 onwards is fundamentally strengthened.

While CAP3238 sets out a number of safeguards, including independent technical oversight and transparency requirements, these do not go far enough to address the underlying issues. We will respond in full as part of the CAA's future consultation on 2027 and beyond but in the meantime repeat below our Key Asks of the CAA, as per our response to CAP3201 (attached for convenience as Appendix A)

**5.1 Ex-Ante Cost Control**

Future expenditure must be subject to robust ex-ante approval, ensuring that:

- Costs are assessed before they are incurred; and
- Only efficient and necessary expenditure is approved.

Ex-post review alone is insufficient and has historically proven ineffective, as recognised by the CAA in its H7 Final Decision.

**5.2 Binding and Enforceable Cost Caps**

While the introduction of a £320m cap is noted, it must be fully assured, strictly binding, and cannot be subject to routine adjustment or upward revision. Without this, the cap provides limited protection.

### 5.3 Genuine Independence of Assurance

Any independent technical or cost assurance function must be:

- Appointed by the CAA;
- Accountable to the CAA; and
- Fully independent of HAL.

Given Steer's comments on the uncertainty and risk on costs (see above), this is essential to ensure credibility and consumer protection.

### 5.4 Appropriate Risk Allocation

The regulatory framework must ensure that promoters retain meaningful financial exposure to early-stage decisions. This is critical to maintaining incentives for efficiency and disciplined project development.

Without prejudice to our views on pre-funding, any costs should be limited to ensure Promotors are truly incentivised for efficiency, delivery, and reflects the actual risk within the framework. For example, employing mechanisms such as only allowing Cost of Debt rather than WACC, as the CAA has determined for HAL's 2025 and 2026 early costs, particularly in light of the limitations of the proposed safeguards and incentives proposed in the Draft Decision.

### 5.5 Clear and Enforceable Clawback and Write-Down Mechanisms

In the event that expansion does not proceed, or is materially altered, there must be clear and enforceable mechanisms to ensure that consumers are not left bearing the full cost; and costs are appropriately written down or recovered.
The CAA states that it does not think a clawback mechanism is appropriate for 2025/2026 costs as these have largely already been incurred, but this reasoning does not apply to costs from 2027 onwards.

### 5.6 Avoid Pre-Determined Outcomes

Early expansion costs and activities must not be allowed to pre-determine or undermine alternative regulatory approaches, delivery models, or alternative Promotors' schemes. Likewise any duplication of works or procurement cannot be within the scope of recoverable costs; the CAA must ensure mechanism(s) to avoid any such scenarios.

Furthermore, land acquisitions must remain within Single Till and in keeping with the above avoid pre-determining outcomes in either design and / or Promotor

### 5.7 Clear Expectations and Roles and addressing Information Asymmetry and Transparency Issues

The CAA must set out clear expectations, criteria and / or evidence thresholds where it has itself not made a pre-determination and / or relying on others. Similarly, the airlines must have a clearly defined and meaningful role.

The CAA must also consider how it will address the current issue of information asymmetry and transparency issues, aligning with the wider engagement on capital as part of the H8 and Regulatory Reform consultations.

## 6. CONCLUSION

The airline community remains firmly of the view that the proposals contained in CAP3238 do not adequately protect consumers and fail to address the fundamental issues identified in previous consultations.

In particular: costs are increasing in scale and uncertainty; consumer benefits remain unproven; and the regulatory framework continues to transfer risk inappropriately to consumers.

The CAA should therefore:

1. Reconsider its decision to allow recovery of early costs for 2025–2026;
2. Undertake a full and independent assessment of consumer benefit prior to any cost recovery;
3. Address significant process shortcomings, including timing and fragmentation; and
4. If not before, fundamentally strengthen the regulatory approach for 2027 onwards, ensuring alignment with its statutory duties, as set out in Section 5 above.

Thank you for your consideration of our submission. Should you have any queries in relation to any of the points raised above we are happy to discuss further.

Yours sincerely

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## Appendix 1: Comparison of Key Asks and Response in the Draft Decision

| **Key Airline Community Ask** | **CAA Draft Decision** |
|---|---|
| CAA must satisfy itself and provide evidence of **ensuring best practice** including on Benchmarking (how does this compare with LGW DCO costs for example) | Steer Cost Benchmarking report provided but difficult to compare early cost estimates with HAL (see Section 3.1 above) |
| An **ex-ante cost approval mechanism** must be implemented, with strengthened tests for all expenditure. | Whilst recognising 2025 and 2026 expenditure has been spent, there is no commitment to Ex-ante mechanism for future spend. |
| An audit of 2025 costs must be carried out a.s.a.p. including any duplication with previous expansion work, with ex-ante cost assessment for future years | It is not clear how CAA has validated the granting of £320m for HAL's early costs 2025 and 2026 including the outputs or outcomes associated with this, raising further concerns on the effectiveness of the ex-post assessment proposed;<br><br>We support CAA's rejection of HAL's claim for an additional £130m however. |
| The **independent cost assessor** must be appointed by, and report to the CAA in order to ensure independence | No commitment to truly independent cost assessor reporting to CAA; HAL still retain contracting and appointment capacity. |
| HAL must provide to CAA, airlines, and independent assessor, a full comparison of new workstreams against both the pre-Covid expansion workstreams and "Modernising Heathrow" programme | HAL cost estimates provided to CAA and presented in CAP3238 have been heavily redacted, with only total figures presented. |
| Must address issues of **transparency and asymmetry of information**; and consider airlines' role in the process | CAA needs to address this for H8 as well as expansion; (see separate airline submissions) |
| The spend-cap must be binding, with any application for raised cap **subject to consultation and robust ex-ante checks by independent assessor**, and no approval unless deemed necessary and efficient. | Applications to raise spend cap has no defined criteria, evidential threshold set and lacks a commitment to robust ex-ante checks by truly a independent assessor. |
| If the scheme is abandoned, an unambiguous clawback mechanism needs to be put in place so that consumers are compensated. | Airlines and consumers will not be compensated for any 2025/2026 early costs should HAL abandon the scheme or fail to secure DCO, but CAA will consider a clawback mechanism for 2027 onwards. |

| | |
|---|---|
| Land acquisition: in order to provide a **level playing field for promoters,** CAA must ensure that any land acquisition is compatible with this and does not limit options or add costs for other promoters | CAA does not consider that the "relatively limited" land and property costs HAL has identified for 2025 and 2026 will foreclose alternative delivery models or be a barrier to competition, CAA will "consider approach" to these costs 2027 onwards (CAP 3238 para 3.21) |
| **Any land acquisition must remain within the single till.** | CAA does not comment on single till in the Draft Decision, but we note and support CAA position in H8 Initial Proposals. |
| Pre-DCO return for HAL should be limited to **Cost of Debt** rather than WACC. | Whilst the CAA has gone with what it calls the 'bottom H7 WACC range' this still over-compensates for expenditure that has been incurred and, based on previous examples, has little to no risk of being recovered and therefore not appropriate for HAL (or others) to be rewarded for. |