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**British Airways response to CAA CAP3078:
Economic regulation of Gatwick Airport Limited: Final Proposals on extending the current
commitments**

Thank you for the opportunity to respond to the consultation on the extension of the Commitments Framework from 2025 to 2029 for Gatwick Airport Limited ("GAL"); we set out below our views and areas of feedback.

We have called for the fundamental review of the regulatory framework dispensed by the CAA for Heathrow (the "Heathrow Reimagined Submission")¹.

We understand that the CAA's process as set out in CAP3078 pre-dates the Heathrow Reimagined Submission, but it is our clear view that there are a number of and comparisons between our views laid out therein and the CAA's oversight of the economic regulation of Gatwick that the CAA must take into account in its consideration of our response to CAP3078.

To be clear, we do not object to the Commitments Framework extension from 2025 to 2029 as suggested by CAA in CAP3078, but rather believe that the CAA must undertake a formal assessment of the underlying framework in place at Gatwick which we believe to be fundamentally flawed. In short, just as is the case at Heathrow, we believe that airport charges at Gatwick continue to rise without commensurate increases in service level outcomes for consumers and users, and without appropriate guard rails for investment of capital at the airport.

The current regulatory model fails to provide effective protections for users and to constrain the substantial market power ("SMP") held by Gatwick Airport Limited ("GAL") in the provision of airport operations services ("AOS") at Gatwick. The framework has produced outcomes divergent to users interests where since the introduction of the framework charges have risen substantially, that are not reflective of cost, revenue and traffic evolutions,

¹ <https://www.heathrow-reimagined.com/#:~:text=About%20Heathrow%20Reimagined&text=The%20campaign%20calls%20on%20the,businesses%2C%20and%20the%20UK%20economy>.

accompanied by insufficient service standards and the delivery of a relatively modest capital programme.

As an example, the framework provides little to no input for users on GAL's Capital Investment Plan (the "CIP"), nor does any meaningful engagement take place in the prioritisation of capital spending, scope and requirements definition of investments, or effective oversight of the achievement of financial benefits associated with investments. We will discuss this concept later in this submission.

The CPI-X approach to setting GAL's price path has provided unnecessary price increases at the expense of users through its indexation to inflation and demonstrates weak recognition of the realities of GAL's ability to manage and control its costs and grow revenues through efficiencies and innovations. The CAA has lacked the appetite to capture the revealed efficiencies demonstrated by the entity in its outperformance of its regulated settlements, discarding a critical advantage of an incentive based regulatory regime's ability to reveal the point of the efficient frontier over time through the effects of frontier shift. The result is demonstrated by GAL's ability to reasonably control costs, rent and rates aside, and use price increases to maximise profits².

We recognise that regulation is always a poor substitute for competition, but it is the CAA's duty to put in place regulation to mimic, as best as feasibly possible, normal competitive conditions. In a normal competitive environment, businesses cannot simply pass on the impacts of inflation to consumers and are required to innovate and continuously improve processes and products to offset the impact of inflation. It is our view that Gatwick, like all regulated airports, should be required to use the same levers available to non-regulated businesses to offset the impacts of inflation and not simply be able to pass the impact of inflation on to consumers.

The Jacobs study ³shows how GAL is fast becoming one of the most expensive airport in the world, with its place in the Charges rank dramatically rising since 2010:

[redacted]

A comprehensive review of the Commitments Framework is overdue following the previous review being completed in 2016 and the CAA failing to meet its statutory duties in its regards of the interests of users of air transport services at Gatwick and in discharging the priorities of the Better Regulation Framework regarding the timeliness and proportionality of its actions.

We will continue to participate in the process as set out in CAP3078

² <https://www.mediacentre.gatwickairport.com/news/london-gatwick-reports-strong-performance-for-2024-as-it-prepares-for-further-growth-2390d-40f32.html>

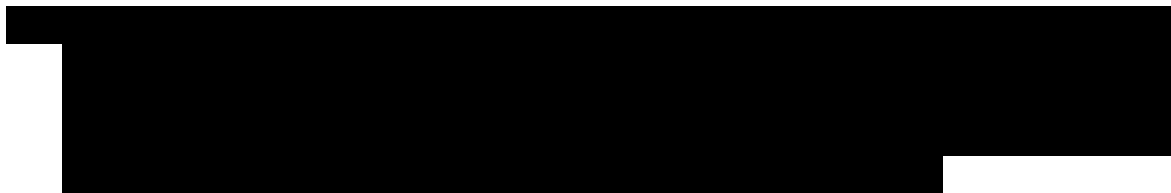
³ Jacobs, 2024 Review of Airport Charges, December 2024. Jacobs calculates airports' charges in the currency in which they are levied, then aggregates these charges for eight aircraft types so they can be converted to a single unit of currency called the Special Drawing Right ("SDR").

However, we recognise the timing of the Commitments Extension review as the industry has been emerging from the Covid-19 pandemic and timeliness of new evidence and developments, and we will therefore continue to participate in the process as laid out by CAA.

As a result, we advocate for specific targeted regulatory developments to be made in the immediate term to deliver timely enhancements to the protections provided by the existing framework in consumers interests ahead of a comprehensive review of the Commitments Framework and addressing the wider need for fundamental regulatory reform. It is imperative that service performance incentives and capital governance are addressed ahead of commencement of expansion works.

Thank you for the opportunity to respond to the consultation on the extension of the Commitments Framework from 2025 to 2029 for Gatwick Airport Limited ("GAL"); we set out below our views and areas of feedback.

Executive Summary



- b) Considering the point in time that the G7 Extension consultation has operated under, with the aviation industry emerging from the Covid-19 pandemic, **we support the extension of the Commitments Framework from 2025-2029**. However, we retain serious concerns on the effectiveness of the framework to deliver outcomes that are in users best interests and call for enhancements to be made ahead of expansion work progressing.
- c) **The current framework is overdue a comprehensive review with longstanding concerns remaining unaddressed by the CAA.** In our opinion, it would have been appropriate for the CAA to conduct a comprehensive review for its assessment of GAL's G7 Extension proposals given the period of time since the previous comprehensive review and the significant implications of GAL's Northern Runway Project ("NRP") for capital investment as well as service and charges levels now and into the future.
- d) With the call for a fundamental regulatory review at Heathrow, the CAA should ensure **the scope of a sectoral reform review should encompass the CAA's discharge of its duties for all regulated entities falling under its jurisdiction**, including GAL.
- e) The current regulatory framework does not aptly address or reflect the realities of **engaging with a monopoly service provider with significant market power on a commercial basis**. It is our belief that GAL acts rationally based on the conditions that are enabled by the framework and set out in its license awarded by the CAA. The

CAA must ensure that effective incentives are in place to protect consumer and users interests, and that the regulated entity is appropriately encouraged and incentivised to function as it would in a competitive, unregulated environment. Without a pre-defined regulatory backstop, there is no meaningful reason for GAL to negotiate against itself.

- f) We remain concerned about the **obligations and incentives on GAL regarding capital investment and service quality**, and as a result encourage the CAA to ensure a comprehensive review is completed ahead of the next regulatory period to avoid baking in inefficiencies and risks of compounding existing issues in the event of airport expansion to the detriment of consumers. Such a review should be completed in a timely manner to enable appropriate planning and consultation of stakeholders in the design of the regulatory period from 2029.
- g) There is a clear **requirement for the CAA to play a more active role in the regulation of GAL**, and to (1) fulfil its core duty to protect the interests of consumers; (2) provide **greater scrutiny to the effects of incentives**; (3) **provide arbitration as required**; and (4) **develop and implement a meaningful regulatory backstop**; and providing enforcement of the licence. This requirement is evident in a number of critical areas including incentivising timely and meaningful commercial negotiation, service quality incentive framework reform and strengthening capital investment arbitration and oversight.
- h) We welcome the expanded evidence base considered by the CAA – specifically the commissioning of the Grant Thornton report. However, our concern towards the level of information asymmetry that exists in the current framework has been furthered by the CAA only sharing a redacted version of the evidence. This lack of transparency limits our ability to evaluate the implications of these developments. **We urge the CAA to ensure that sufficient information is made available to stakeholders to allow for a meaningful reassessment of GAL's projected profitability.**
- i) In our opinion cost increases, **including inflationary effects**, should not be considered for automatic or unscrutinised application to regulated entities cost bases as efficiencies and innovations should be adopted to offset their impacts, as is reflective of pressures experienced and practices demonstrated in a competitive market.
- j) We note the absence of any references by the CAA to the **affordability of access to airport facilities by consumers**, specifically balancing infrastructure needs with the efficient and reasonable airport charges. Absent the lens of affordability, consumers run the risk of bearing the cost of inefficient and unnecessary investments by GAL.
- k) The ongoing engagement between GAL and airlines is welcome and we are actively engaged in endeavouring to deliver meaningful improvements to the Core Service Standards ("CSS") framework. The additional metrics and rebalancing of incentives currently under discussion with GAL represent an encouraging step in the right direction but in our view fall short of the structural reform of the CSS that is required. **We call on the CAA to actively engage in conducting a comprehensive review of the CSS** with particular attention, but not limited to, addressing the calculation of metrics

and subsequently target levels, which to date GAL have been stoically reticent to engage in with airlines. The current measures do not form a representative reflection of the realities of service performance experienced at Gatwick and do not provide appropriate incentives on GAL to deliver the necessary service levels and associated required capital investments.

- l) As a result of the CSS not functioning as an appropriate and effective incentive **the link between the CSS and Capital Investment Plan ("CIP") is broken.** This results in capital investment being misdirected with consumer benefitting projects deferred, insufficient in scope or deprioritised as GAL is not appropriately incentivised to invest in rectifying service performance shortfalls or weaknesses. The CAA needs to enhance the CSS framework to provide sufficient incentive to ensure GAL reflects airlines priorities and considerations in its CIP.
- m) The current framework **does not provide an effective incentive for the appropriate prioritisation of capital expenditure reflective of consumer and user interests.** Consumer benefitting projects, such as the International Departure Lounge ("IDL") seating improvements, have already experienced deferral by GAL in preference of its own corporate objectives despite airline requests to the contrary. The unilateral prioritisation of capex by the regulated entity without oversight or ability to course correct by airlines, or the regulator fulfilling an active role (on behalf of consumers), risks detriment to consumers through resultant reduced service levels and **needs to be urgently addressed as part of wider enhancements addressing GAL's capital governance and engagement of users ahead of airport expansion works progressing.**
- n) We see opportunity to **fundamentally improve the capital process by incentivising GAL to deliver meaningful and transparent engagement.** This should oblige GAL, through appropriate Licence conditions, to meaningfully engage airlines in the identification and prioritisation of capital investments, the definition of scope and requirements, and introduction of clearly defined delivery obligations and gateways across the capital process for major projects and projects of specific interest to airlines. To support this, the quality of information provided by GAL should be significantly improved to reflect airlines requirements.
- o) The **licence currently provides no power to hold GAL to account on the efficient delivery of capital investments** or to ensure GAL truly holds the cost risk of delivery, contrary to CAA assertions. Project cost overruns have the potential to result in changes to other projects including reprioritisation, deferral, lengthening delivery timelines and, or reductions in scope, in order for GAL to maintain its own acceptable capex envelope (whilst fulfilling its commitments) potentially in confliction to consumers interests.
- p) The **CAA needs to be actively engaged in capex governance and oversight,** ensuring capital plans are appropriately prioritised, scoped, costed and delivered efficiently in consumers interests with stakeholders interests appropriately incorporated. The CAA's involvement is fundamentally needed to address the imbalances of power prevalent in dealing with a party holding significant market power ("SMP").

- q) **The CAA needs to act immediately to enhance consumer and user protections** against the risks presented in the current framework by implementing provisions that; ensure robust and transparent capex governance from GAL; enhance consultation standards with clear decision-making and accountability mechanisms; provide power for users to influence GAL's CIP; deliver effective and active regulatory engagement and incentivise efficient delivery. These steps would provide a level of safeguarding for consumers against potential harm presented in the existing framework.
- r) We **object to the prefunding of the NRP** from charges levied against current consumers for a benefit accruing to future consumers. We are receptive to the consideration of an appropriate model to address this flaw of the current framework.
- s) We **support the requirement for a reopener if the NRP is not granted planning permission, or GAL are unable to proceed or make insufficient progress on the project delivery**. Guidance from the CAA on what it considers insufficient progress would provide clarity to stakeholders as to the CAA's expectations and associated timescales. If the investment does not materialise, refunds should be automatic and immediate rather than subject to negotiations that may result in inconsistent and unfair outcomes across users. Any reprioritisation of capital investment should not be unilaterally determined by GAL or bilaterally negotiated to the exclusion, and potential detriment, of some users.

1. Statutory Duties and the Commitments Framework

- 1.1. The economic regulation of Gatwick Airport Limited ("GAL") is based on a set of commitments from GAL and was first introduced in 2014, under the Civil Aviation Act 2012 ("CAA12").
- 1.2. **GAL has been determined by the CAA to hold significant market power** with respect to the provision of airport operation services to passenger airlines at the Airport⁴ and consequentially is subject to economic regulation by the CAA. The CAA noted in its market power determination that GAL could abuse its significant market power *"through excessive pricing, inefficiency, inferior service quality or investment"*⁵.
- 1.3. Indeed, in considering the long-term risks of expansion to GAL under the current regulatory framework, **Grant Thornton assesses that there is a likelihood that GAL will continue to hold significant market power in an expansion scenario**⁶.
- 1.4. **Under the current commitments period, consumers have seen GAL's headline charges increasing by over 70% (2015-2024)**. These increases have happened

⁴ CAP1134: Market Power Determination in relation to Gatwick Airport – Statement of Reasons. See, for example, paragraph 5.27

⁵ CAP1134: Market Power Determination in relation to Gatwick Airport – Statement of Reasons. See, for example, paragraph 6.22

⁶ <https://www.caa.co.uk/media/wuxcfp3q/final-report-caa-gal-grant-thornton-redacted.pdf> para 4.51

despite increasing passenger numbers, relatively limited capital program, and growing commercial revenues which should theoretically be delivering reducing airport charges for consumers.

- 1.5. Under CAA12 "the CAA's primary duty in carrying out our assessment of GAL's proposals is to further the interests of consumers."⁷. We agree with the CAA that **"ensuring that airport charges are reasonable is an integral part of protecting the interests of consumers"**⁸.
- 1.6. The CAA's stated intention for the Commitments Framework is that it presents a proportionate and targeted approach to regulation that encourages bilateral contracting and commercial led decision making, rather than at the direction of the regulator itself. The theory that this light touch approach to regulation furthers the interests of consumers through the benefit of greater competitive pressure on GAL arising from the requirement for commercial interactions with airlines lacks consideration of the behaviours and interests of a monopoly provider with significant market power.
- 1.7. The existence of **the commitments framework and bilateral agreements does not replicate competitive market powers** or present a comparable commercial negotiation environment as one party holds significant market power. Users negotiate from a significantly disadvantaged position and lack sufficient visibility of GAL's costs and power to challenge GAL. Such **negotiations operate in an asymmetric fashion due to the imbalance between the negotiating parties**. As a result of these issues, we reiterate our consideration that it would be **appropriate for the CAA to introduce a defined backstop for both price and service levels** to provide protections to consumers interests.
- 1.8. It is our belief that GAL acts rationally based on the conditions that are enabled by the framework and set out in its license awarded by the CAA. **The CAA must ensure that effective incentives are in place to protect consumer and users interests, and that the regulated entity is appropriately encouraged and incentivised to function as it would in a competitive, unregulated environment**. Without a pre-defined regulatory backstop, there is no meaningful reason for GAL to act out of its own self-interest.
- 1.9. **A significant period of time has passed since the CAA conducted a mid-term review of the initial set of commitments in 2016**. The targeted review of GAL's charges, bilateral deals and service quality issues and investment that was anticipated from the 2021 extension review have not materialised, with elements continuing as key points of concern at this extension period.
- 1.10. **Under the CAA's duties, the CAA must have regards to the Better Regulation principles with the framework following five regulatory principles that include**

⁷ CAP3012 para 3.16

⁸ CAP3012 para 3.9

Proportionality and Recognising what works. The framework defines recognising what works as:

"[We] will thoroughly analyse our interventions based on the outcomes they produce in the real world and where regulation does not achieve its objectives.....we will ensure it is revised"⁹

- 1.11. In our opinion **the lack of timely, comprehensive review of the framework by the CAA draws its fulfilment of this regulatory principle into question.**
- 1.12. The CAA's light touch regulation of GAL appears to attempt to adopt the Better Regulation Framework approach to proportionality but does not demonstrate a full reflection, with a lack of due demonstrable action for *"when strong rules are required to achieve the best outcomes, we will act decisively to put them in place and enforce them vigorously"*¹⁰. It is our opinion that there is clear need for regulatory intervention in the framework in a number of areas that have been demonstrated by users over a period of time. A lack of steps taken to date by the CAA to address the issues identified in the 2021 extension review do not appear to consistent with this principle.
- 1.13. A comprehensive review is overdue and **urgently required to avoid baking in inefficiencies and risking compounding existing issues in the event of airport expansion** which have the potential to exacerbate the detriments to consumers presented in the existing framework in terms of price and service levels. We **recommend the CAA begin this review no later than Spring 2026**, with a view to concluding within one calendar year. This will allow sufficient time for the design and consultation of the next regulatory period from 2029, giving all stakeholders clarity and certainty.

2. CAA Final Proposals

- 2.1. We agree with the CAA that *"the assessment of GAL's prices and profitability is an important part of our overall assessment of whether the commitments proposed by GAL will further the interests of consumers"*¹¹. We view this function as a fundamental demonstration of the CAA having due regard to its primary statutory duty and as such should be demonstrably afforded the appropriate level of scrutiny and assessment.
- 2.2. We note that the CAA has taken consideration of information submitted by GAL in response to CAP3012 and subsequent analysis by Grant Thornton, published alongside CAP3078. However, the redaction of critical evidence in both submissions, noted as updated traffic forecast, changes to business rates, average

⁹ [Department for Business & Trade "Better Regulation Framework"](#) para 1.2

¹⁰ [Department for Business & Trade "Better Regulation Framework"](#) para 1.2

¹¹ CAP3078 para1.2

discount rates and other developments in GAL's cost base limits our ability and opportunity to evaluate these developments. **We urge the CAA to ensure that sufficient information is made available to stakeholders to allow for a meaningful reassessment of GAL's projected profitability.**

3. Service Quality

- 3.1. We agree with the CAA's assertion it is consistent with its primary statutory duty that the regulatory regime needs to appropriately incentivise GAL to provide good services to consumers and airlines and that good quality of service is an integral part of protecting the interests of consumers, however, we question the CAA's conclusion that GAL has taken "sufficient steps to enhance service provision" through its review of the Core Service Standards (CSS).
- 3.2. The **current review of the Core Service Standards ("CSS") is a welcome progression and GAL's engagement is positively received.** The frequency of consultation has increased in recent weeks, reflective of efforts from airlines, through the Gatwick Airport Consultative Committee ("ACC"), and GAL. We continue to fully support these engagements as the current CSS review continues.
- 3.3. However, we continue to hold serious concerns that the extent of the **scope of the review is too limited and only amounts to minor adjustments that will result in negligible improvements to the service levels experienced at the airport.** The CSS framework, originally developed over a decade ago, needs to evolve to reflect today's operational realities and challenges. It is our view **that the ongoing CSS review fails to address critical issues at the core of the framework** with concerns towards, but not limited to, the calculation of metrics and, subsequently, target levels.
- 3.4. The current CSS features calculations for a series of metrics based on moving averages captured across inappropriately extended time periods, some representing annual or quarterly rolling timeframes. **Extended time periods and moving averages are unsuited for forming a representative measure of performance due to the propensity of these measures to mask failure points.** Concerns on these points are compounded when consideration is given to the variance in demand profile of traffic at Gatwick that has notable demand fluctuations.
- 3.5. **The calculation of metrics should be appropriate to ensure it creates an accurate and reflective representation of service performance levels delivered by GAL.** The CSS should function as an effective incentive delivering positive consumer outcomes in terms of both service performance levels and in the appropriate prioritisation of investment in areas needed to deliver the service quality required by users.
- 3.6. Based on our experience during the CSS review, these **critical issues in the CSS will not be resolved without regulatory intervention.** It is not in GAL's own best interest to enhance the CSS to form an effective incentive, expose itself to reputational and, or financial increased potential risk and highlight capex requirements currently not

appropriately prioritised or included in its CIP. The CAA needs to act without delay in completing a comprehensive review of GAL's service performance incentive framework to protect consumers interests. We would look forward to engaging with and supporting any such review.

- 3.7. We recognise that there are several areas where progress has been made, namely the introduction of new metrics and changes to existing ones, with scope and, or target level changes. **We reiterate our positive reflection of these developments, however recognition is due that a number are still under discussion between the ACC and GAL**, including the metrics the CAA has spotlighted in its Final Proposals, and have not reached a satisfactory position yet.
- 3.8. We are pleased that GAL have now agreed to bring the **staff search measurements in the terminal in line with the staff search areas in Jubilee House and Atlantic House**. Discussions are still being held on our request to have a maximum queue time of 7 minutes for staff search security, which is a critical enabler to delivering first wave On Time Departure ("OTD") success for airlines and subsequent schedule delivery throughout the remainder of the day. The proposed standard aligns with crew report times and airport wide OTD targets and ultimately contributes to the consumers perception of GAL's service performance. The progress of discussions with GAL on the maximum queue time for staff search are not progressing sufficiently and risk becoming deadlocked with GAL not minded to agree to this measure.
- 3.9. We welcome GAL's decision to increase the passenger satisfaction target for **Departure Lounge ("IDL") seating** from 3.8 to 4.0, as per the behest of the CAA, and maintain the remit of the metric to be focused on the IDL, excluding Food & Beverage seating. It would appear appropriate that the target is considered again following the planned investment to the North and South Terminal IDL areas contained in CIP24.
- 3.10. Our concerns on the calculation of the Pier Service Levels (PSL) metric remains unresolved and shows no sign of making progress in discussions between the ACC and GAL. In our opinion, the current annual average measurement fails to capture persistent issues with stand availability and bussing, particularly during peak periods. GAL has resisted moving to more granular reporting that would better reflect actual service delivery.
- 3.11. The **calculation methodologies, including time periods and, or target levels, as well as incentive weightings are still under discussion for a number of metrics** including arrivals special assistance services, self-service bag drop, the airdrome congestion metrics and staff search security. We look forward to progressing these points of ongoing discussion over the coming months to reach a satisfactory outcome.
- 3.12. **With discussions still ongoing, we question the suitability of including the metrics as defined in the CAA's Final Proposals under the Licence Modifications.** This appears to risk imminently generating a divergence between the Licence and the CSS in operation once the current review is completed, as the CSS should reflect a state of evolution from its current guise as set out in the CAA's Final Proposals. This runs

contrary to the CAA's objective of avoiding mismatch between the Conditions of Use and those established in the Licence¹².

- 3.13. We **support the CAA's introduction of a deadline for GAL to present its final CSS proposals**. We believe this will provide an appropriate incentive on GAL to remain engaged in efforts to improve the CSS through the current review.
- 3.14. **We request that the CAA clearly establish its considerations of its subsequent steps in the event that agreement is not reached between stakeholders and GAL** at the deadline indicated by the CAA. Whilst we continue to endeavour to collaboratively address the full breadth of issues evident in the CSS, it is our experience to date that GAL are not open to meaningful discussion on reviewing certain, critical elements of the CSS that we have highlighted.
- 3.15. It is essential that the regulatory framework is regularly assessed to ensure it appropriately delivers against the CAA's statutory duties in presenting an effective incentive on GAL to deliver the service quality and investments required and reflects the requirements of users and consumers.
- 3.16. We urge the CAA to consider **how GAL can be incentivised to appropriately revise and evolve the CSS metrics over time**, acting even when it may not be in GAL's own interests, recognising the needs and priorities of airlines and consumers.
- 3.17. The lack of appetite from GAL to engage with requests to address the foundational issues with the CSS is a clear demonstration of the failing of the current framework to place sufficient incentive on GAL to meaningfully and willingly engage in remedying structural weaknesses in its incentive framework without regulatory interventions. This underlines the requirement for the CAA to provide a regulatory backstop and an arbitrary role whilst ensuring comprehensive reviews are completed at appropriate intervals and as needs arise.
- 3.18. The foundational nature of the CSS in the incentive framework on GAL, with it currently forming the incentive for the prioritisation of consumer benefitting, service quality remedial investments in GAL's Capital Investment Plan ("CIP") further heightens the urgency of a fundamental review of the CSS being completed by the CAA as soon as possible, with our strong desire this is completed prior to expansion works beginning.

4. Capital Investment Governance

- 4.1. We see opportunity to **fundamentally improve GAL's capital governance by incentivising GAL to deliver meaningful and transparent engagement**. We agree with

¹² CAP3078 Appendix C para C.3

the CAA statement that “...it is essential that the airlines are well informed and have sufficient information...”¹³ for the capital governance process to be effective.

- 4.2. The CAA so far has been muted in its considerations on the subject in developing its Final Proposals. A key pillar of the Commitments Framework is ongoing consultation and collaboration with airport users on investment decisions. It is our view that **the current framework does not provide meaningful incentive for GAL to appropriately consider and account for users’ needs or priorities in its Capital Investment Programme (“CIP”).**
- 4.3. Current governance and engagement practices divide information and updates across forums. The **transparency & traceability of information needs to be improved** and should be incorporated into a wider evolution to GAL’s capital governance and engagement standards.
- 4.4. The **quality of information presented by GAL to stakeholders needs to make a step change improvement.** GAL’s CIP needs to be evolved to represent the core consultation document for stakeholders, providing required details including costs, timelines, implications and benefits for current and future major projects and projects of specific interest to airlines to enable appropriate assessment by stakeholders. This should be supported by further accessible and consistent documentation for major projects.
- 4.5. To address this shortcoming, we would be supportive of the principle of using a set of standard questions, to **ensure the minimum, pertinent information for each major project is provided at each necessary tollgate and reflected in the CIP** to support the decision-making process and traceability of information.
- 4.6. The progress of major projects through the stages of governance and delivery should be documented in the CIP including summarising changes and key decision reasoning in a clear and concise manner whilst providing key information tracing costs, predicted benefits and delivery timelines against original plans. This should enable the traceability of major project developments and delivery between tollgates and CIP iterations.
- 4.7. GAL’s **timeliness of consultation** regarding its CIP needs attention with stakeholders having to wait until September 2024 for GAL’s CIP24 consultation and are awaiting consultation in CIP25. This is despite GAL’s annual user charges coming into effect on 01 April. We request that the CAA consider an obligation on GAL to conduct its CIP consultation process aligned to the requirements in place for GAL’s annual Conditions of Use consultation.
- 4.8. The current framework **does not provide an effective incentive on GAL for the appropriate prioritisation of capital expenditure reflective of consumer and user interests.** Consumer benefitting projects, such as the International Departure Lounge (“IDL”) seating improvements, have already experienced deferral by GAL in

¹³ ICAA CAP2524G Capital Expenditure Governance, para 1.9

preference of its own corporate objectives despite airline requests to the contrary. This is not an isolated occurrence. We have experienced similar investment decisions deprioritising key projects by GAL including investments in the departure piers, coaching gates and ongoing maintenance of existing capital assets.

- 4.9. The unilateral prioritisation of capex by the regulated entity without oversight or ability to course correct by airlines, with appropriate involvement of the regulator, on behalf of consumers risks detriment to consumers through resultant reduced service levels and declining consumer experiences.
- 4.10. GAL's CSS is designated as the provision of an incentive in the current framework for GAL to invest in its infrastructure to provide the necessary consumer outcomes. However, as we have raised in our comments on the CSS, the current form of the CSS does not form an effective incentive on GAL. As a result, consumer benefitting projects are not appropriately prioritised by GAL despite airlines representations. The CAA should introduce sufficient protections for consumers through establishing robust obligations on GAL to incorporate stakeholders preferences across all elements of its capital investment programme.
- 4.11. The **licence currently provides no power to hold GAL to account on the efficient delivery of capital investments**, or to ensure GAL truly holds the cost risk of delivery contrary to CAA assertions. Project cost overruns have the potential to result in changes to other projects including reprioritisation, deferral, lengthening delivery timelines and, or reductions in scope, in order for GAL to maintain its own acceptable capex envelope (whilst fulfilling its commitments). This can result in costs being deferred into future periods and in confliction to consumers interests.
- 4.12. The current capital governance commitments, as reflected in the Conditions of Use, should be enhanced through appropriate and immediate consultation and subsequently be adopted into GAL's Licence. We would **welcome working with GAL and the airline community to develop GAL's capital investment governance procedures and obligations** ahead of the commencement of expansion related capital projects. The outcome of such a review could be jointly presented by airlines and GAL to the CAA for the adoption into GAL's Licence. Further consultation could be required by the CAA if areas remain under dispute, with such consultation conducted as part of a comprehensive framework review by the CAA.
- 4.13. **GAL's capital governance process should be defined in the Licence Commitments to provide clarity and targeted obligations on GAL for the benefit of stakeholders.** This would provide a welcome development to the clarity and accountability of GAL's quality of engagement of stakeholders.
- 4.14. As witnessed under the CSS review, **a regulatory obligation is required as a minimum development to bring GAL to meaningfully engage with its stakeholders on profound changes** to its standards. We request that the CAA set a deadline for GAL to consult stakeholders on developments to its capital governance and engagement obligations. In support of this the CAA should ensure that its comprehensive review of GAL's regulatory framework includes consideration of GAL's capital governance.

In our view, these obligations are required as a matter of urgency to incentivise meaningful engagement to address the foundational issues with GAL's current practices and is required ahead of the commencement of expansion related capital projects.

- 4.15. **The CAA needs to ensure sufficient and robust safeguards are in place with obligations on GAL to meaningfully engage airlines** and take account of their views in; the identification and prioritisation of capital investments, the definition of scope and requirements, and introduction of clearly defined delivery obligations and gateways across the capital process for major projects and projects of specific interest to airlines.
- 4.16. To support the assessment of GAL's proposals where the investment does not constitute a core part of airlines business and operations, stakeholders require independent involvement to provide expert assistance to evaluate scope, cost and benefits of projects.
- 4.17. **The CAA needs to be actively engaged in capex governance and oversight**, ensuring capital plans are appropriately prioritised, scoped, costed and delivered efficiently in consumers interests with stakeholders interests appropriately incorporated. The CAA's involvement is fundamentally needed to address the imbalances of power prevalent in dealing with a party holding significant market power ("SMP").
- 4.20. In the current absence of ex-ante delivery obligations and governance akin to that progressively evolving for Heathrow Airport Limited, which themselves are proving insufficient to control an entity with SMP without a much more meaningful engagement from the CAA, we would encourage the CAA to strengthen the obligations on GAL regarding its capital investment governance and engagement of stakeholders and for the CAA itself to take a much more active role in monitoring GAL's capital investment programme to ensure projects are appropriately prioritised considering stakeholder priorities and consumer needs as well as to ensure GAL does not unilaterally prioritise its CIP. This is of particular concern given the incentives on GAL to ensure timely progress of the Northern Runway Project which presents risks of unilateral prioritisation by GAL, especially in the instance where incremental costs materialise versus budget.

5. Northern Runway Project

- 5.1. The NRP is by far the most significant capital investment during this upcoming regulatory period and based on GAL's CIP24 has the potential to consume over 70% of GAL's capital investment commitment. As such, **we agree with the CAA that it warrants close monitoring and appropriate safeguards.**
- 5.2. We note with concern that around £580 million — approximately one-quarter of the total NRP cost — is due to be pre-funded through airport charges during the extension period which creates an unreasonable financial burden on today's consumers. **We object to the pre-funding of the NRP and are receptive to the**

consideration of an appropriate alternative model to address this fundamental flaw of the current framework.

- 4.19. We have not been convinced by GAL's assertions that the cost envelope presented captures the total extent of airfield and terminal investments that will be required to deliver an appropriate level of service for consumers and operators in the case that the forecast passenger demand fully, or even in part, materialises are not supported by the evidence provided. Concerns arise, and are not limited to, two immediate areas;
- The implications on costs of recommended conditions or adjustments to the NRP DCO made by the Planning Inspectorate;
 - and, the service performance framework GAL has based its terminal and airfield developments upon to support the increase in capacity given the outstanding and severe issues prevalent in the current service performance framework and how rectifications to the framework will impact GAL's infrastructure requirements, subsequent investment levels with associated contribution to charges.
- 5.3. We **support the requirement for a reopener if the NRP is not granted planning permission, or GAL are unable to proceed or make insufficient progress on the project delivery**. Since the publication of the Final Proposals on 25 February 2025, the Secretary of State for Transport has announced a nine-month delay to the DCO decision, now expected by 27 October 2025. Given the precedent of repeated delays to DCOs at other UK airports, there is a high risk that GAL may continue investing heavily in preparatory works while approval remains uncertain.
- 5.4. We **seek clarity from the CAA on what constitutes GAL being "unable or unwilling to progress capacity plans."** Delays due to planning challenges differ from GAL voluntarily abandoning the project, yet the financial impact on users remains the same.
- 5.5. Furthermore, **we strongly disagree with the proposal that GAL should negotiate any monies due back to users on a bilateral basis**. If the investment does not materialise, refunds should be automatic and immediate rather than subject to negotiations that may result in inconsistent and unfair outcomes across users, or be unilaterally decided by GAL.
- 5.6. In summary, we continue to **encourage the CAA to engage in a clear and active role in overseeing capital delivery across the CIP**, not only to monitor progress on the NRP, but to safeguard the delivery of wider benefits to consumers.

Please feel free to approach us with any questions on our response to this consultation.

Yours sincerely,



A handwritten signature in black ink, appearing to read "Gavin Molloy".

Gavin Molloy
Director of Infrastructure
Networks & Alliances
British Airways Plc