

AGS Airports Limited's response to CAA's Terminal Air Navigation Services (TANS) in the UK: Call for evidence CAP 1605 – December 2017

Overview

AGS Airports is a partnership between Ferrovial and Macquarie Infrastructure and Real Assets (MIRA) established in 2014 to invest in Aberdeen, Glasgow and Southampton airports.

As the second largest airport group in the UK, AGS carried approximately 15 million passengers in 2017. With 70 airlines serving more than 200 destinations, the Group serves three distinct catchment areas and includes Europe's busiest commercial heliport at Aberdeen.

Approximately 1,000 people are employed across the Group which supports a further 12,000 indirect employees.

AGS Airport Limited's response to consultation questions

1. Who provides TANS at your airport? Is it provided in-house or is there a contract for TANS provision?

NATS (Services) Ltd.

2. When did the contract start? When is the contract due to end? Is there a break clause (Y/N)? If yes please provide details.

The contract commenced on 1 April 2016 and will run to 31 March 2021 with no break clause.

3. What factors influenced the choice of contract length?

AGS strategy deems we review the suitability of our contract for this critical service every five years.

4. Who owns the equipment and infrastructure used to provide TANS at your airport?

The AGS equipment and infrastructure is either leased by or owned by NATS. NATS owns the control towers at Aberdeen and Glasgow airports. Southampton Airport owns its control tower.

5. If you contract out, what do you plan to do when the contract expires?

AGS will embark on a market tender exercise.

6. What factors did you take into account in choosing whether to hold a tender before awarding the TANS contract? What was the determining factor?

We considered our ability to change provider alongside service and cost within the available timeframe.

7. If you have tendered, what were the main reasons for doing so? What process did you follow and what criteria did you use to select providers?

N/A.

8. If you renegotiated a contract renewal, please tell us about the negotiation. How did the talks commence and what were your key requirements from the provider?

The key requirement for the contract negotiation was ensuring adequate provisions to switch provider without service disruption were in place. NATS has a very strong safety and service record, maintaining this was a key requirement for AGS.

9. Do you plan to consult airspace users before making any future decision on TANS provision? If so, how are you planning to do so?

We plan to consult with our airlines through our flight safety group about the standards of our service provider.

10. What do you consider will be your main priorities for your next TANS contract?

Our main priorities for the next TANS contract will be cost and the ability to deliver the service to the standards required by AGS.

11. Are you considering moving to new technology for TANS provision? If so, please give details.

This is not known at this stage.

12. Are you concerned about any potential barriers to changing TANS provider, including any issues around the transfer of assets and staff, or including any CAP 1605 Questions for stakeholders existing interactions with en-route services? If so, to what extent are those barriers surmountable? Do you have any evidence of such barriers?

AGS does not have any concerns at this stage.

13. Do you have any observations about recent changes in the UK TANS Market? Do the changes make you more likely to tender in the future? Do you consider that your existing provider is more aware of the potential competitive forces in the TANS market?

The market has become more active in recent years and NATS are aware of the competitive forces at play. This makes it more likely AGS will tender for TANS in the future.

14. To what extent can you pass the costs of air navigation service charges on to users? Do you operate in a competitive environment and/or are you subject to economic incentives designed to cap prices or reduce costs? Do you actively compete for airline business?

Airport competition is an established reality, resulting in significant competitive pressure. AGS Airports compete with other airports throughout Europe and beyond for airlines/routes.

AGS Airports consults on an annual basis with our airline partners to review and discuss charges. During the consultation process we discuss service levels, capital investment plans and any tariff/conditions of use/sundry charges changes. We also review the changes with the local Airport Operators Committees as well as the user charges groups. Our conditions of use, including charges can be found on our websites:

Aberdeen International Airport

<https://www.aberdeenairport.com/about-us/doing-business-with-us/conditions-of-use/>

Glasgow Airport

<https://www.glasgowairport.com/media/189788/glasgow-airport-limited-conditions-of-use-2017-31-october-2016-.pdf>

Southampton Airport

<https://www.southamptonairport.com/about-us/conditions-of-use/>

15. Do you have any other comments you would like to make?

No.

12th December 2017

Introduction

This call for evidence submission from Air Navigation Solutions Ltd (ANSL), a UK registered company wholly owned by DFS Group, has been compiled against a backdrop of significant bilateral dialogue and correspondence with the CAA. This redacted version is approved for circulation and publication.

We would like to register that an initial meeting between CAA and ANSL was held on 4th December 2017 in relation to this call for evidence ahead of formal submission. We would also like to point the CAA towards our comprehensive participation in the Steer Davis Gleave transition review as many of the areas and responses are relevant to this call for evidence.

Call for Evidence

The CAP 1605 (Call for Evidence) asks for submissions in 7 general areas as detailed below:

- 1. How do you find out about possible changes of TANS providers at UK airports?*
- 2. Have you considered bidding for a TANS contract in the UK (Y/N)? If yes, for which airport(s)? If not, why have you not considered bidding?*
- 3. Where you have been aware of a possible change of TANS provider at a UK airport did you bid? If not, why not?*
- 4. What do you consider are the main barriers in offering or withdrawing TANS services at one airport, including any issues around the transfer of assets or staff? To what extent are those barriers surmountable? Can you provide evidence to substantiate your answer?*
- 5. Do you have any observations about recent changes in the UK TANS Market? Did that make you more likely to bid for other airports' TANS contracts in the future?*
- 6. Are you considering moving to new technology for TANS provision? If so, please give details.*
- 7. Do you also provide en-route services? If so, are those activities subject to separate accounting and reporting? Please give details. Do you provide en-route or other services under contract with NERL? Could those be provided by another provider?*

1. Currently the situation relies upon ANSL engaging with the airport operators in order to establish timeframes around existing contracts periods. The level of experience within the ANSL organisation ensures a good contract knowledge base and the ability, if required, to make contact at a senior level with most Airports or Airport holding companies. It should also be stated, however, that there have been a number of instances when ANSL discovered, through a generic press release, that a contract it believed would be available to compete for had, in fact, been extended with the incumbent NSL without any reference to the market.

The CAA stated in CAP1293 that "by the end of 2016, the CAA expect to see most of the airport operators, whose contract are nearing termination, to have notified some form of open tender for TANS provision". There was an undertaking that should this prove not to be the case then the

CAA would undertake a full market review. This was not achieved and yet no market review has been initiated or conducted. Furthermore, there is clear evidence to suggest that NSL as the dominant market provider of TANS services in the UK has bilaterally convinced a number of airports (Manchester, Stansted, Heathrow, Farnborough, Belfast International, London City, Glasgow, Aberdeen and Southampton) to extend or renew contracts without market testing. ANSL declared its concerns in relation to this in a letter to the CAA dated 20th May 2016. Specifically, the ANSL shareholder, DFS, had a reasonable expectation as to the available size of the UK TANS market when making the initial investment decision which has failed to materialise. ANSL believes the CAA should initiate immediately a full market review and satisfy itself that there has been no abuse of dominance or anti-competitive behaviour in each of the contractual arrangements conducted bilaterally between NSL and the various airports listed.

2. ANSL has bid for and successfully secured contracts with Gatwick Airport Ltd (GAL) and more recently Edinburgh Airport Ltd (EAL).

ANSL was unsuccessful in its bid for Belfast City Airport Ltd, which at the time was self-supplying TANS services. An opportunity existed for NSL to combine a number of services between Belfast City Airport and Belfast International Airport (which they had secured without recourse to the market) alongside a Terminal Control Area Function delegated from NATS En-route Plc (NERL) none of which were available to other bidders.

ANSL also prequalified for a bid to provide TANS services at London Luton Airport. Whilst engaging in the bidding process and specifically after receiving the answers to a number of clarification questions ANSL considered that the lack of regulatory guidance on Trust of a Promise (ToaP) and other exit and transition provisions meant the risk associated with bidding would render any price uncompetitive. London Luton's insistence that bidders submit a fairly short-term option (5 years) and a lack of senior management engagement in the process also lead ANSL to question whether the airport was prepared to actually change providers or was using the exercise to ensure the best price from the incumbent. For those reasons ANSL decided to withdraw from the process before bids were submitted and concentrate management effort elsewhere.

3. ANSL has engaged in the bidding process for every recent airport contract that has been opened to competition. The sum total is listed in answer to Question 2. In addition ANSL continues to work hard in the market to ensure customers are aware of what ANSL has to offer and to try and persuade airports and other industry stakeholders that open tender is the best way to ensure value is optimised.
4. ANSL would point the CAA towards its full and comprehensive participation in the Steer Davis Gleave Transition review on transition in the TANS market. This covered many of the key points including those surrounding assets and staff. Detailed evidence was given to support the assertions made and ANSL would like this to be included as part of this call for evidence.

In addition to the comprehensive relevant points made in the aforementioned review we consider transition and set up costs to be one of the biggest barriers to a fair and equitable market place. In particular ToaP skews the TUPE process where NSL is the incumbent and, in the absence of clarity around the conditions and general arrangements new entrants can expect should they be successful, strengthens the competitive position of the incumbent whilst weakening and introducing risk unfairly to challengers. The CAA committed to work bilaterally to resolve this issue with NSL a number of years ago with little or no progress to date leaving challengers such as ANSL exposed where they could reasonably have expected a framework to have been established.

We also consider the delegation of NERL services into many NSL operations to be open to abuse with the potential to create an unfair competitive advantage in favour of NSL and therefore potentially a significant barrier to TANS market entry. If the delegation of TMA services from NERL to current NSL airport approach functions is considered to be the most operationally and cost effective method of delivery then this should be the case regardless of who the TANS supplier is. Generally it is accepted that delegated functions are delivered at marginal cost by NSL and that, if the delegated service was removed, the manpower requirements would remain largely the same at the airport approach function. It is essential this is urgently clarified and clear regulatory directives provided to ensure equity for all. ANSL would wish to see delegated functions and the associated payments from NERL being consistent with current arrangements and available to all bidders of TANS contracts where a delegated function currently exists. Any other arrangement could be considered an abuse of dominance and call into question the integrity of the NERL license and whether the current and / or future relationship between NERL and NSL is regulatory and legally compliant.

Finally we would urge the CAA to satisfy itself that costs are being fairly allocated between NERL and NSL particularly in relation to overhead and management costs. Likewise that NSL are being charged fairly and justifiably for the use of NERL assets particularly as there appears to be a push towards recentralising various services (EFPS, Remote Towers) into the NERL estate. Any conditions favourable to NSL in this arrangement that NERL are not willing to replicate with other TANS providers clearly create a barrier to entry for new entrants to the TANS market who have neither the assets nor the scale of the UK monopoly en-route provider.

5. As stated in the answer above (Q2 and Q4) ANSL has not seen the kind of clarity or action from the CAA it could reasonably have expected in a number of areas including ToaP, market investigation and further clarity on the relationship between NERL and NSL / other TANS providers. This has led to ANSL withdrawing from one tender process and to call into question generally whether the market is in fact fair and open.

ANSL also notes that further airports have chosen to extend or renew with NATS despite ANSL clearly establishing itself as a credible alternative with positive customer feedback. What

convinces them to shun the competitive process and negotiate bilaterally with NATS should be of interest to the CAA in the role of competitions authority.

There also appears less structural separation throughout NATS generally with organisational structures appearing less distinct and a drive towards the centralising of services into the NERL estate. This added to the delegated services provided by NSL on behalf of NERL at many TANS airports provides an environment where the CAA should ensure that challengers are not disadvantaged unfairly through the NERL / NSL relationship.

ANSL is still committed to the UK TANS market and to growing market share but recent market trends, a lack of regulatory inertia and the shrinking of available airports make it less conducive to open and fair competition than was previously the case.

6. ANSL does not consider technology an alternative to free market economics. Having the customer set the requirements and allowing the market to decide on the most appropriate delivery methods is the most effective competitive model.

With that caveat in mind ANSL is evaluating constantly the most appropriate method(s) for future TANS delivery, many of which include technology solutions.

7. ANSL do not provide any en-route services.

Signed on behalf of Air Navigation Solutions Limited



Henry Game
Managing Director

From: [redacted] [mailto:[redacted]@ATCSL.aero]
Sent: 24 November 2017 12:43
To: economicregulation
Subject: TANS call for evidence - ANSP submission from ATCSL

TANS

ANSP questions with responses from Air Traffic Control Services Limited:

1. How do you find out about possible changes of TANS providers at UK airports? **Industry word of mouth and OJEU.**
2. Have you considered bidding for a TANS contract in the UK (Y/N)? If yes, for which airport(s)? If not, why have you not considered bidding? **Yes Luton, Birmingham, Belfast City.**
3. Where you have been aware of a possible change of TANS provider at a UK airport did you bid? If not, why not? **Did not bid on Gatwick and Edinburgh because the Gatwick airport operation was too big for us and for Edinburgh we considered that either NATS or ANS, already having taken Gatwick, were better placed.**
4. What do you consider are the main barriers in offering or withdrawing TANS services at one airport, including any issues around the transfer of assets or staff? To what extent are those barriers surmountable? Can you provide evidence to substantiate your answer? **The biggest barrier is the TUPE Regs and the affect those have on a tenderers ability to make a bid that is commercially viable to them. Also a larger organisation can accept more risk in a bid and absorb any losses over a much longer period. They can also support one contract from another without having to necessarily show a cost within the contract offer.**
5. Do you have any observations about recent changes in the UK TANS Market¹⁰? Did that make you more likely to bid for other airports' TANS contracts in the future? **Not seen it.**
6. Are you considering moving to new technology for TANS provision? If so, please give details. **Yes whenever we re-equip now we consider including the capability for providing remote services Approach Radar and Tower Control.**
7. Do you also provide en-route services? If so, are those activities subject to separate accounting and reporting? Please give details. Do you provide en-route or other services under contract with NERL¹¹? Could those be provided by another provider? **No.**
8. Have you any other comments you would like to make? **We are very happy to provide further detail in a meeting or telecon as we have done before.**

Kind regards,



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8th December 2017

Sent by email to economicregulation@caa.co.uk

Re. Terminal Air Navigation Services (TANS) contestability in the UK: call for evidence (CAP 1605)

Dear Rod,

British Airways (BA) welcomes the opportunity to respond to the CAA's call for evidence regarding Terminal Air Navigation Services (TANS) contestability in the UK. BA notes the CAA's definition of TANS from CAP 1293 that the service consists of two elements – the approach service and the aerodrome service. Where this response refers to TANS at Heathrow and Gatwick it is focused on the aerodrome component only and not the wider London Approach service.

BA does recognise that in the UK there does appear to be a market developing for TANS as evidenced by changes in service providers at airports such as London Gatwick and Birmingham amongst others. Whilst development of this market is welcome BA would not consider this to yet be a fully-functioning market that is demonstrably delivering benefits to airspace users.

In its 2015 submission to the CAA's CAP 1293 consultation IATA argued that whilst there was evidence of a market developing the existence of market conditions had not been demonstrated. IATA called for more evidence to be gathered and in the interim for the publication of cost-efficiency information and changes data at an airport level that would better allow the CAA and airlines to form a view on the extent to which market conditions were present in the UK. IATA effectively re-stated this position in their October 2017 response to the initial DfT Aviation Strategy consultation.

Whilst we acknowledge the European Commission's agreement with the UK on the establishment of market conditions for TANS in 2016, as airspace users we have not yet been in a position to date to fully agree with that assessment. The various changes in TANS provision at UK airports is encouraging but more information need to be made available to airlines as well as evidence of how changes in provision benefits airlines and their passengers through increased airport cost efficiency and reductions in airport charges, as argued by IATA in 2015.

BA's responses to the specific questions asked by the CAA are:

- 1. Have any airport operators, whose contract for the provision of TANS is coming to an end, consulted you on the potential way forward/options for new set-up? If so, what was your response to them?**

BA has had limited contact from airport operators regarding TANS provision. When London Gatwick changed supplier there was engagement at both head office and airport level. BA head office operations management met NSL and ANSL alongside GAL and other Gatwick airlines. At the airport level there was information-sharing and engagement from GAL both bilaterally and through the AOC but this was more for briefing airlines on the upcoming change. For the avoidance of doubt the engagement from GAL was positive and effective in terms of managing the transition from NSL to ANSL at the airport level but, in our opinion, it did not constitute meaningful consultation that would have impacted the tender process for a new TANS provider. BA does not have any sight of the change in service costs at Gatwick as a result of the change in service provision.

At London Heathrow the 2015 re-negotiation of NSL's contract was done by HAL without any airline consultation or engagement.

- 2. Are there any developments in the UK TANS market since the transition of services in Birmingham and Gatwick that you wish you raise that you think will be relevant to our review?**

The development of remote tower operations, as demonstrated by NATS at London City, indicates the potential for this new form of TANS provision to augment and improve service and reduce costs. The CAA should consider how barriers to entry and transition issues could best be addressed to facilitate new service providers using new technologies.

- 3. Have you any other comments you would like to make?**

BA would support the CAA considering whether information-sharing with airlines and/or consultation should be a requirement or best practice for changes in TANS provision that airport operators seek to make at both Heathrow and Gatwick as regulated airports. Without evidence to the contrary that changes in service provision, whether via new providers or extensions of existing arrangements, benefit airspace users - both airlines and consumers - it is not possible to fully evidence TANS market conditions and demonstrate the associated benefits.

We look forward to responding to the CAA's consultation on the draft advice for the Secretary of State in early 2018. If you want to discuss our views please contact me at david.milford@ba.com.

Yours sincerely,



David Milford
Economic Regulation Manager
British Airways plc

CAP1605 TANS QUESTIONS

Airport Operators

1. Who provides TANS at your airport? Is it provided in-house or is there a contract for TANS provision?

TANS is provided in house by BAATL (a wholly owned subsidiary of BAL)

2. When did the contract start? When is the contract due to end? Is there a break clause (Y/N)? If yes please provide details.

BAATL started providing ANS in April 2015. The contract has no fixed period.

3. What factors influenced the choice of contract length?

N/A

4. Who owns the equipment and infrastructure used to provide TANS at your airport?

Birmingham Airport Limited

5. If you contract out, what do you plan to do when the contract expires?

N/A

6. What factors did you take into account in choosing whether to hold a tender before awarding the TANS contract? What was the determining factor?

Control of costs and, crucially, control of a major asset essential to the operation of the airport

7. If you have tendered, what were the main reasons for doing so? What process did you follow and what criteria did you use to select providers?

N/A

8. If you renegotiated a contract renewal, please tell us about the negotiation. How did the talks commence and what were your key requirements from the provider?

N/A

9. Do you plan to consult airspace users before making any future decision on TANS provision? If so, how are you planning to do so?

Airspace users are regularly consulted on operational developments through the airports Flight Safety Committee

10. What do you consider will be your main priorities for your next TANS contract?

See 7

11. Are you considering moving to new technology for TANS provision? If so, please give details.

BAL is aware of new technologies emerging in airfield ANS provision and will monitor these developments for potential application at Birmingham

12. Are you concerned about any potential barriers to changing TANS provider, including existing interactions with en-route services? If so, to what extent are those barriers surmountable? Do you have any evidence of such barriers?

Ensuring that sufficient staff transfer to the new ANS provider will continue to present a major risk for airports considering changing their TANS provision. However, this issue is largely independent of the presence or absence of market conditions.

13. Do you have any observations about recent changes in the UK TANS Market? Do the changes make you more likely to tender in the future? Do you consider that your existing provider is more aware of the potential competitive forces in the TANS market?

The changes to ANS contracts, at Gatwick and Edinburgh particularly, have made the UK TANS providers and their customers more aware of the potential for changing providers. This has, undoubtedly, resulted in some airports negotiating their TANS contracts under more favourable conditions.

14. To what extent can you pass the costs of air navigation service charges on to users? Do you operate in a competitive environment and/or are you subject to economic incentives designed to cap prices or reduce costs? Do you actively compete for airline business?

BAL actively competes for airline business and recovers its costs from its customers through user charges

ANSPs

1. How do you find out about possible changes of TANS providers at UK airports?

Through the EU OJ

2. Have you considered bidding for a TANS contract in the UK (Y/N)? If yes, for

which airport(s)? If not, why have you not considered bidding?

Not currently – largely because BAL would prefer not to dilute its pool of expertise across multiple sites.

3. Where you have been aware of a possible change of TANS provider at a UK airport did you bid? If not, why not?

See 2

4. What do you consider are the main barriers in offering or withdrawing TANS services at on existing interactions with en-route services? If so, to what extent are those barriers surmountable? Do you have any evidence of such barriers?

BAL has not been made aware of any issues involving interactions with the en route service provider arising from transition to in house ANS provision

5. Do you have any observations about recent changes in the UK TANS Market? Did that make you more likely to bid for other airports' TANS contracts in the future?

See 13 above

6. Are you considering moving to new technology for TANS provision? If so, please give details.

See 11 above

7. Do you also provide en-route services? If so, are those activities subject to separate accounting and reporting? Please give details. Do you provide en-route or other services under contract with NERL? Could those be provided by another provider?

N/A

8. Have you any other comments you would like to make?

Note of telephone call between CAA and Edinburgh Airport Limited (EAL) on TANS Contestability (in lieu of the airport's response to CAA's call for evidence (CAP 1605))

05 January 2018

Attendees: Rod Gander (CAA), Pedro Pinto (CAA), Adrian Witherow (EAL), Stephen Swan (EAL)

1. Who provides TANS at your airport? Is it provided in-house or is there a contract for TANS provision?

NSL moving to ANSL on 1st April 2018. Contract awarded in June 2016.

2. When did the contract start? When is the contract due to end? Is there a break clause (Y/N)? If yes please provide details.

Contract with NSL was 7 years long. New contract with ANSL is 10 years long. No formal break clause, but there are provisions for early termination for default / non-delivery.

3. What factors influenced the choice of contract length?

Contract needed to be more than 5 years to allow new entry, as otherwise it would not allow a new entrant to recoup its entry costs.

A longer contract length is also likely to yield a better price, more operational stability and opportunities for the ANSP to invest and optimise the service.

4. Who owns the equipment and infrastructure used to provide TANS at your airport?

The tower is owned by EAL. Some of the equipment has leases where NSL is the lessee. The airport is in transition discussions with NSL to take over the leases.

Admin over lease agreements was not perfect, as some of them related to the time when BAA owned the airport, and included assets which are at Glasgow.

The airport will finance new investments.

5. If you contract out, what do you plan to do when the contract expires?

Too far out for the next contract, but would consider tendering again.

6. What factors did you take into account in choosing whether to hold a tender before awarding the TANS contract? What was the determining factor?

CAA had said there was an open market. EAL saw what other airports had done.

Other ANSPs (ANSL and a couple from Sweden) had approached EAL over the possibility of providing the TANS service.

Lack of transparency in the contract with NSL – EAL did not know the cost of what they were paying for.

EAL had learnt from the Birmingham and Gatwick transitions.

7. If you have tendered, what were the main reasons for doing so? What process did you follow and what criteria did you use to select providers?

Tender had 8 bidders at the start. (Serco, Czech ANSP, ATC Services (Peel), AustroControl, ACR Sweden, LFV Sweden, ANSL and NSL). There was also some interest from the Irish and Swiss ANSPs.

EAL had an open day to introduce potential bidders to EAL's TANS requirements.

EAL was aware of the legal challenge by NSL on Gatwick's tendering process. Tender was launched with a "voluntary advertisement" as EAL was not obliged to tender. It was an open and transparent process.

There was a Pre-qualification stage – to ensure bidders meet the required technical standards.

Then EAL Published an Invitation to Tender.

3 bidders proceeded to the invitation to tender stage. One (LFV) then opted out.

There was then an Evaluation and Negotiation stage with ANSL and NSL. ANSL was the successful bidder.

Benefits realised through the tender:

- More transparency (EAL now understands much better the biggest contract on the site).
- Lower cost compared with no tender.
- Resilience – guarantee from ANSL's parent company (DFS German ANSP), ANSP will not just fold if facing difficulties.
- Relationship with ANSL is more of a partnership looking to the future compared with more contractual relationship with NSL.
- Different IPR provisions to avoid issues on who owns the IP, MATS part 2, etc. Stronger ANSP exit provisions.
- ANSL is not trying to set up a situation where it could be difficult to transition to another provider.

EAL would consider running the process again.

Airport worked with consultants (Cyrus and NorthStar) to set out the technical requirements and help with the tendering process.

8. If you renegotiated a contract renewal, please tell us about the negotiation. How did the talks commence and what were your key requirements from the provider?

Not Applicable.

9. Do you plan to consult airspace users before making any future decision on TANS provision? If so, how are you planning to do so?

Local discussions with the AOC. Not a huge level of consultation. Airport was not looking to change the service provided much.

10. What do you consider will be your main priorities for your next TANS contract?

Current priority is for transition to go smoothly.

11. Are you considering moving to new technology for TANS provision? If so, please give details.

Not planning big shift in TANS technology (e.g. remote towers), but considering some evolution (e.g. install cameras to enhance service). Is in discussion with ANSL about contingency service.

12. Are you concerned about any potential barriers to changing TANS provider, including any issues around the transfer of assets and staff, or including any existing interactions with en-route services? If so, to what extent are those barriers surmountable? Do you have any evidence of such barriers?

Transfer of Staff is going pretty well.

NSL allowed good access to staff in process. Workshop with staff to discuss their options. General Manager left NSL and is now employed by ANSL. This was helpful as he is coordinating transition, which put staff at ease.

ANSL has hired new ATCOs early-on and they have 6 people training in the tower.

Secondment agreement has been agreed between ANSL and NSL. EAL is not privy to the commercial details of the contract, but is aware that there is a ceiling number of ATCOs that could be provided. EAL considers that it more than covers the staffing needs. This secondment contract is a significant part of the contract cost. This cost is effectively paid by EAL and spread over the 10 years of the TANS contract.

Other barriers: role of the CAA is quite important. Risk of transition (e.g. the extent to which the CAA is equipped and resource the transition) was a key consideration in tendering. Also the time it takes to train new ATCOs is a consideration that needs to be factored in to transitions. Although ANSL recruited 6 experienced ATCOs they still required nearly 12 months training to be able to operate at Edinburgh.

In the past airports outsourced responsibilities to ANSPs (e.g. maintenance, IP, MATS part 2, documentation). If that is the case, some issues may arise at time of transition.

13. Do you have any observations about recent changes in the UK TANS Market? Do the changes make you more likely to tender in the future? Do you consider that your existing provider is more aware of the potential competitive forces in the TANS market?

NSL is more aware of the competitive environment, now that several airports have changed provider.

14. To what extent can you pass the costs of air navigation service charges on to users? Do you operate in a competitive environment and/or are you subject to economic incentives designed to cap prices or reduce costs? Do you actively compete for airline business?

Generally, the costs are included in the cost base which is recovered through airport charges after consultation with users. However, EAL operates in a competitive environment and cannot automatically recoup its costs. It needs to actively compete for airline business and manage its operating costs (including TANS).

15. Do you have any other comments you would like to make?

EAL considers that since CAA has reviewed market conditions, the market has moved more towards contestability, with their transition being evidence of that.

YOUR LONDON AIRPORT
Gatwick

8 DECEMBER 2017

Pedro Pinto
Civil Aviation Authority
CAA House
Kingsway
London

Dear Pedro, Rod,

RE: Tower Contestability

Gatwick Airport Limited (GAL) welcomes this opportunity to respond to the CAA's request for information regarding tower contestability in the UK. The Attached annex provides responses to the questions provided.

Please do not hesitate to contact me if you wish to discuss or need any further information.

Yours Sincerely



Mattias Bjornfors
Economic Regulation Manager

YOUR LONDON AIRPORT

Gatwick

Annex: Answers to provided questions

1. Who provides TANS at your airport? Is it provided in-house or is there a contract for TANS provision?

TANS at Gatwick is provided by Air Navigation Solutions Limited (Company Number: 91661111). The TANS provision is contracted.

2. When did the contract start? When is the contract due to end? Is there a break clause (Y/N)? Y If yes please provide details.

The contact started on 1 March 2016. It is a 10 year contract with commercial review on 28th February 2026.

[redacted]

3. What factors influenced the choice of contract length?

The factors considered included the criticality of service provision continuity. In addition to this we considered collaboration and partnership consideration and anticipated technological developments, know-how and experience.

4. Who owns the equipment and infrastructure used to provide TANS at your airport?

GAL owns the equipment.

5. If you contract out, what do you plan to do when the contract expires?

[redacted]

6. What factors did you take into account in choosing whether to hold a tender before awarding the TANS contract? What was the determining factor?

GAL considered a number of factors, including the long term strategy, long term state and outlook of TMA and wider European airspace, performance and relationship with the incumbent TANS provider, needs and requirements of airline customers and cost.

The determining factors where cost, performance of and relationship with the incumbent TANS provider and needs of airline customers.

YOUR LONDON AIRPORT

Gatwick

7. If you have tendered, what were the main reasons for doing so? What process did you follow and what criteria did you use to select providers?

To facilitate competition both in terms of cost/service offering and to give opportunity to a wider range of bidders.

We used a OJEU Negotiated procedure. [redacted]

8. If you renegotiated a contract renewal, please tell us about the negotiation. How did the talks commence and what were your key requirements from the provider?

Not applicable

9. Do you plan to consult airspace users before making any future decision on TANS provision? If so, how are you planning to do so?

Yes, we will consult to gain feedback and understand requirements. This would typically be done through various user and community groups.

10. What do you consider will be your main priorities for your next TANS contract?

[redacted]

11. Are you considering moving to new technology for TANS provision? If so, please give details.

Yes, as a commercial organisation, GAL is always looking at new and better ways of doing things, this includes TANS. We have a good track record as an organisation of being at the forefront with using technology to help in delivering service to users. In the past this has included innovative new approaches to security (which have since been widely copied by others).

12. Are you concerned about any potential barriers to changing TANS provider, including any issues around the transfer of assets and staff, or including any existing interactions with en-route services? If so, to what extent are those barriers surmountable? Do you have any evidence of such barriers?

The barriers to changing TANS supplier are not insurmountable. Demand for ATCO staff is high in general, but this is not necessarily a barrier.

YOUR LONDON AIRPORT

Gatwick

13. Do you have any observations about recent changes in the UK TANS Market? Do the changes make you more likely to tender in the future? Do you consider that your existing provider is more aware of the potential competitive forces in the TANS market?

We observe from various industry sources that it appears as if NATS has had to work harder to retain contracts following the changes over the past couple of years (in particular at Gatwick and Birmingham).

GAL would certainly consider tender again to achieve better service and value for money. We also believe that this helps prevent incumbent from being complacent. We do however believe that our existing provider is well aware of the competitive forces in the market.

14. To what extent can you pass the costs of air navigation service charges on to users? Do you operate in a competitive environment and/or are you subject to economic incentives designed to cap prices or reduce costs? Do you actively compete for airline business?

The cost of TANS is treated as an operating expenditure by Gatwick. Gatwick is regulated by means of a Licence issued by the CAA under the Civil Aviation Act 2012. Currently our charges are well below those permitted by both the licence and the associated monitoring regime.

Gatwick actively competes for airlines and have recently accomplished helped Norwegian Air shuttle rapidly grow their innovative low cost long haul business and also seen the growth of our more established carriers like the IAG group (both long haul and short haul) and easyJet. In addition to this recent years have seen the arrival of new long haul operators like Westjet, Cathay Pacific, China Airlines, Air Canada Rouge, Medview and Rwandair. While Gatwick has limited spare capacity left we are always looking for ways to make the best use of the capacity of our airfield.

15. Do you have any other comments you would like to make?

none

Terminal Air Navigation Services (TANS) contestability in the UK: Call for evidence (CAP 1605) Heathrow's response

Date: 18 December 2017
Prepared by: Heathrow Airport Limited
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Introduction

Heathrow welcomes the opportunity to respond to this call for evidence regarding the contestability of terminal air navigation services (TANS).

Heathrow is of the view that there is contestability in the market for the provision of TANS in the UK following the recent changes. Most notably, the movement of Birmingham to self-supply and the decision at Gatwick to appoint an alternative provider for TANS. NATS is contracted to provide this service and is currently in year three of a contract for the provision of this service.

Consultation questions for airport operators

1. Who provides TANS at your airport? Is it provided in-house or is there a contract for TANS provision?

NATS is currently contracted to provide TANS at Heathrow airport.

2. When did the contract start? When is the contract due to end? Is there a break clause (Y/N)? If yes please provide details.

The contract began on 1 April 2015. The contract contains break clauses for material breach and non-performance on the part of the supplier.

3. What factors influenced the choice of contract length?

A 10-year contract was chosen with the intention of creating a partnering agreement with NATS. Heathrow is of the view that a longer contract term provides greater certainty for the supplier allowing it to invest in the skill set of its employees and in its technology, which in turn helps to drive a better service quality and return for Heathrow and its users. It should also be noted that the ATC service at Heathrow is a safety and operationally critical service and as such we would want to limit the number of transitions between providers and therefore look to stability of service over a 7 to 10-year period.

4. Who owns the equipment and infrastructure used to provide TANS at your airport?

Under the current contract, an agreement is in place to transfer assets to Heathrow as they are replaced in line with the asset replacement plan.

5. If you contract out, what do you plan to do when the contract expires?

Given the longer length of the current contract term, we consider it is too early to provide a definite answer to this question. However, following the publication of the report regarding the transition of TANS services at Gatwick and Birmingham airports to alternative or in-house suppliers, Heathrow has reviewed the learnings from these processes and is working to ensure that these can be incorporated in our current exit management plan in case of a future transition to an alternative supplier.

6. What factors did you take into account in choosing whether to hold a tender before awarding the TANS contract? What was the determining factor?

The contract with NATS was originally tendered prior to 2012.

Prior to commencement of the current contract, a business decision was taken to renegotiate in order to maintain stability as part of our broader resilience programme.

A negotiated procedure was used to test and evaluate the market base, and to challenge the incumbent provider of a similar system. This was benchmarked with number of suppliers against a fixed set of criteria and compared results to ensure best value for money and best technical fit.

7. If you have tendered, what were the main reasons for doing so? What process did you follow and what criteria did you use to select providers?

N/A

8. If you renegotiated a contract renewal, please tell us about the negotiation. How did the talks commence and what were your key requirements from the provider?

We had a clear focus on service requirements, associated service levels, performance and cost efficiency plus wider value for money and consideration of ATM modernisation at Heathrow including deployment of SESAR and wider resilience improvements. The process lasted for approximately 12 months.

9. Do you plan to consult airspace users before making any future decision on TANS provision? If so, how are you planning to do so?

We have no specific plans to consult airspace users on the provision on TANS. The TANS contract at Heathrow is part of the Heathrow cost base which is subject to wider economic regulation from CAA.

10. What do you consider will be your main priorities for your next TANS contract?

The priorities for the TANS contract at Heathrow will remain broadly the same with a focus on a good quality, safe and resilient ATC service provision supported by wider innovation to drive cost efficiency and service improvements.

11. Are you considering moving to new technology for TANS provision? If so, please give details.

Yes, we have a wider programme of innovation with NATS which is associated with our asset replacement plan. In particular we are looking to automate controller support functions, integrate new technology such as high-resolution cameras, replace our virtual tower facility and improve arrival & departure capacities (i.e. Time Based Separation improvements).

12. Are you concerned about any potential barriers to changing TANS provider, including any issues around the transfer of assets and staff, or including any existing interactions with en-route services? If so, to what extent are those barriers surmountable? Do you have any evidence of such barriers?

Heathrow has no material concerns regarding barriers to changing TANS provider. The current contract with NATS has provisions covering a potential change of ANSP provider at the end of

the contract term and it would be expected that NATS would fully co-operate in the case that a change was to take place. As discussed above, Heathrow has considered the learnings from the Gatwick and Birmingham transitions and is working with NATS to ensure that the exit management plan is fit for purpose in the case of a change of supplier at the end of the contract term.

13. Do you have any observations about recent changes in the UK TANS Market? Do the changes make you more likely to tender in the future? Do you consider that your existing provider is more aware of the potential competitive forces in the TANS market?

Heathrow considers the TANS market to be contestable. As above, given the current position in the contract term, we are unable to provide clarity on whether we are more likely to tender in the future. However, if Heathrow considers that NATS is not responding to the competitive forces in the market, we will be more likely to tender.

14. To what extent can you pass the costs of air navigation service charges on to users? Do you operate in a competitive environment and/or are you subject to economic incentives designed to cap prices or reduce costs? Do you actively compete for airline business?

Heathrow Airport has been assessed by the CAA as having significant market power and so is licenced by the CAA and subject to price cap regulation. Costs for TANS are included within this overall price cap. Heathrow therefore bears the volume risk on these costs.

Heathrow operates as a hub airport and as such competes with both other UK airports and other European hub airports.

15. Do you have any other comments you would like to make?

N/A



December 08th, 2017

Mr. Rod Gander

UK CAA

CAA House

45-59 Kingsway

London WC2B 6TE

Sent by email to: economicregulation@caa.co.uk

Ref; Terminal Air Navigation Services (TANS) contestability in the UK: call for evidence (CAP 1605)

Dear Mr. Gander,

IATA welcomes the opportunity to respond to the December 2017 UK CAA Call for evidence on the contestability of Market Conditions for Terminal Air Navigation Services (TANS) in the UK.

We agree that there has been some maturing of market conditions within UK TANS, which could be evidenced by changes in service providers at airports such as London Gatwick and Birmingham. However at present IATA would not consider this to be a fully functioning market, which is demonstrably delivering benefits to airspace users

IATA acknowledge the European Commission's position and agreement with the UK on the establishment of market conditions for TANS in 2016. Based on the present lack of performance data, IATA does not believe that sufficient evidence has been gathered to date, to fully endorse that assessment. In the near-term we would request that the UKCAA continue to gather specific comparable data to evidence that efficiencies have been achieved and that these efficiencies are being passed on to airspace users via lower charges.

The various changes in TANS provision at UK airports may be encouraging, but more information is required to be made available to airlines as evidence of how changes in provision benefits them and their passengers through increased airport cost efficiency and reductions in airport charges and assuming there has been no reduction in safety metrics and loss of capacity. In our October 2017 submission to the DfT Aviation Strategy consultation we again called for more transparency around the publication of cost-efficiency information and charges data at an airport level, to allow the CAA and airlines to form a view on the extent to which market conditions were present in the UK. Furthermore, IATA appreciates the opportunity to respond to the CAA's consultation on the draft advice for the Secretary of State in early 2018.



IATA's responses to the specific questions asked by the CAA are:

- 1. Have any airport operators, whose contract for the provision of TANS is coming to an end, consulted you on the potential way forward/options for new set-up? If so, what was your response to them?**

IATA has had no contact from airport operators regarding TANS provision. We would welcome the opportunity to be involved and to assist our membership in a consultation process.

- 2. Are there any developments in the UK TANS market since the transition of services in Birmingham and Gatwick that you wish you raise that you think will be relevant to our review?**

The present and future development of Remote Tower Operations in the UK market indicates the potential for this new form of TANS provision to maintain service levels and reduce costs. The CAA should consider how barriers to entry and transition issues could best be addressed to facilitate new service providers using new technologies.

- 3. Have you any other comments you would like to make?**

In relation to Terminal Air Navigation Services, more transparent criteria to evidence the existence of market conditions for UK airports must be developed. In Airports where market conditions are evidenced at an airport level, arrangements must be put in place for publication of cost efficiency data. In airports where service providers are considering deploying new technologies such as "remote tower services", barriers to entry and transition issues should be specifically addressed at a license level by the CAA

Yours Sincerely,

A handwritten signature in black ink, appearing to read "R. Sergison", is written over a light blue rectangular background.

Rory Sergison,

Assistant Director, ATM Infrastructure

Safety and Flight Operations, Europe

Terminal Air Navigation Services (TANS) contestability in the UK: call for evidence (CAA): London City Airport's response

1. Who provides TANS at your airport? Is it provided in-house or is there a contract for TANS provision?

Since 1987 NATS has been providing Terminal Air Navigation Services at London City Airport (LCY).

2. When did the contract start? When is the contract due to end? Is there a break clause (Y/N)? If yes please provide details.

LCY's contract with NATS as its air traffic service provider was renewed on 1 November 2017 and the duration of the contract is 10 years.

3. What factors influenced the choice of contract length?

In 2020 the airport will move to digital air traffic control which will replace the airport's existing tower with fourteen HD cameras offering a panoramic view of the airfield. The new contract with NATS will see the transition to the digital air traffic control tower which predetermined the length of the contract.

4. Who owns the equipment and infrastructure used to provide TANS at your airport?

The Airport owns the equipment at the moment. Once the transition to the new digital air traffic control tower is complete, the airfield navigation aids and the tower itself (the transmitters) will be LCY owned and the rest of the equipment, which will be based at NATS' office in Swanwick, will be NATS' owned.

5. If you contract out, what do you plan to do when the contract expires?

The airport will continue to contract out the Terminal Air Navigation Services.

6. What factors did you take into account in choosing whether to hold a tender before awarding the TANS contract? What was the determining factor?

The Airport decided to hold a tender before awarding the TANS contract to exploit the market and find the best opportunity. It should be noted that there was a lack of interest in the tender process.

7. If you have tendered, what were the main reasons for doing so? What process did you follow and what criteria did you use to select providers?

The main reasons for tendering were to test the market and the available providers. In doing so, the Airport followed the European Union tender process.

8. If you renegotiated a contract renewal, please tell us about the negotiation. How did the talks commence and what were your key requirements from the provider?

The negotiation talks took place jointly at LCY offices and the office of the provider. The talks were for a new contract for services; the talks were balanced and productive. Our key requirements were of quality and reliability of service.

9. Do you plan to consult airspace users before making any future decision on TANS provision? If so, how are you planning to do so?

No, the airport does not plan to consult airspace users, as LCY has significant experience of airspace matters in the Terminal Area.

10. What do you consider will be your main priorities for your next TANS contract?

The main priorities will service delivery, new technology, and harnessing this to improve services, both in terms of speed and safety.

11. Are you considering moving to new technology for TANS provision? If so, please give details.

LCY has announced that it is to become the first UK airport to install a digital air traffic control tower which will be operational in 2019. The digital tower will utilise state-of-the-art 360 degree HD cameras and sensors on a newly constructed tower. The air traffic controllers will be based in a remote control room in Swanwick. A live feed with a panoramic view of the airfield, along with sensory and operational data will be sent via super-fast secure fibre connections.

12. Are you concerned about any potential barriers to changing TANS provider, including any issues around the transfer of assets and staff, or including any existing interactions with en-route services? If so, to what extent are those barriers surmountable? Do you have any evidence of such barriers?

There is always a risk of changing from a human input driven service to an automated service; however, I am confident that such concerns can be addressed without any detriment to any asset transfer and/or staffing concerns. To date there no barriers that I can give reference to that are notable and that cannot and have not been addressed in our contractual discussions.

LCY's tender process demonstrated that there is insufficient provision of UK providers and at the same time within Europe there is a lack of interest and appetite to take over the UK market. This could be due to the fact that LCY sits in a very complex airspace controlled by NATS.

13. Do you have any observations about recent changes in the UK TANS Market? Do the changes make you more likely to tender in the future? Do you consider that your existing provider is more aware of the potential competitive forces in the TANS market?

14. To what extent can you pass the costs of air navigation service charges on to users? Do you operate in a competitive environment and/or are you subject to economic incentives designed to cap prices or reduce costs? Do you actively compete for airline business?

LCY already passes on the costs through the landing fees and aircraft parking fees. All of these carry airspace charging.

15. Do you have any other comments you would like to make?

Standards against which service level provision is to be benchmarked can be improved.

We may want to discuss the process by which you awarded your current TANS contract, or are planning to award your next contract. Please can you provide us with contact details of who we can approach if we wish to arrange such a discussion.

Gary Hodgetts, Director Technical Operations: gary@londoncityairport.com

London Luton Airport Response to CAP 1605



1. Who provides TANS at your airport? Is it provided in-house or is there a contract for TANS provision?

NATS (Services) Ltd

2. When did the contract start? When is the contract due to end? Is there a break clause (Y/N)? If yes please provide details.

November 2012 and expires in October 2018.

3. What factors influenced the choice of contract length?

Board decision

4. Who owns the equipment and infrastructure used to provide TANS at your airport?

The Airport Operator

5. If you contract out, what do you plan to do when the contract expires?

Prior to contract expiry we will tender the provision of TANS.

6. What factors did you take into account in choosing whether to hold a tender before awarding the TANS contract? What was the determining factor?

Our parent group policy requires tendering of all service contracts when they expire.

7. If you have tendered, what were the main reasons for doing so? What process did you follow and what criteria did you use to select providers?

Our parent group policy requires tendering of all service contracts when they expire. We have recently completed an OJEU tender for the provision of TANS, and bids were evaluated on a number of aspects including;

- ***Overall contract price***
- ***Number of services offered against the ITT.***
- ***Organisation experience.***
- ***Organisation commitment.***
- ***Transitional arrangements, etc***

8. If you renegotiated a contract renewal, please tell us about the negotiation. How did the talks commence and what were your key requirements from the provider?

Not applicable

9. Do you plan to consult airspace users before making any future decision on TANS provision? If so, how are you planning to do so?

No

10. What do you consider will be your main priorities for your next TANS contract?

Movement rate capability, safety record, technological advancements.

11. Are you considering moving to new technology for TANS provision? If so, please give details.

One of the key considerations for our next tender process will be the advances in remote tower capability and to what extent this could reduce operating costs whilst maintaining or improving capacity requirements and safety standards.

12. Are you concerned about any potential barriers to changing TANS provider, including any issues around the transfer of assets and staff, or including any existing interactions with en-route services? If so, to what extent are those barriers surmountable? Do you have any evidence of such barriers?

LLA's only concern around potential barriers are that with the proximity of other larger London airports it was felt that the deed of the trust of the promise was a barrier to the process and a number of issues with this promise were highlighted during this process.

13. Do you have any observations about recent changes in the UK TANS Market? Do the changes make you more likely to tender in the future? Do you consider that your existing provider is more aware of the potential competitive forces in the TANS market?

Recent events over the last few years has demonstrated that there is competition in the UK TANS market, as previously mentioned LLA has seen benefits from tendering services and will continue to do so.

14. To what extent can you pass the costs of air navigation service charges on to users? Do you operate in a competitive environment and/or are you subject to economic incentives designed to cap prices or reduce costs? Do you actively compete for airline business?

LLA operates in the London market which is one of the most competitive aviation markets in the world, LLA is constantly evaluating its operational costs to try and maintain an attractive position for our current and prospective airline customers.



Terminal Air Navigation Services (TANS) contestability in the UK: call for evidence

08 December 2017

Introduction

- 1.1 Manchester Airports Group (MAG) owns and operates three airports in the UK (Manchester, London Stansted, East Midlands), handling more than 55 million passengers per annum. Our airports are nationally significant infrastructure assets, providing essential connectivity both for the regions they serve and the wider UK economy, contributing £7.1 billion in GVA each year.

2. Summary

- 2.1 The CAA is aware from its previous work on these issues that MAG concluded contract renegotiations with NSL in September 2014 for TANS at Manchester and Stansted airports. The duration of these contracts is ten years, starting on 1st April 2015.
- 2.2 As such, it will be some time before we actively reconsider our approach to the provision of TANS for these airports. This is especially the case given the rate of technological progress in TANS provision. Given this, we would want to take into account changes in circumstances before determining our approach to the provision of these services at Manchester and Stansted.
- 2.3 At East Midlands Airport, MAG provides its own TANS and has no plans to change these arrangements in the near future.
- 2.4 Our submissions to the CAA on these issues in 2015 set out our approach to renegotiating TANS with NSL, and provide the most up to date evidence for the CAA's assessment of market conditions relating to Manchester and Stansted airports.
- 2.5 Our choice of ten years as the contract length reflects the fact that the nature of air navigation services means there is often a high level of investment from both parties, both in terms of equipment, technology, resources and training. Contracts must therefore be of sufficient length to allow time for investments to be made and commissioned, as well as costs to be recovered.
- 2.6 Although it is likely to be some time before we consider these issues again, we would expect to consult airspace users before making any future decision on TANS provision.
- 2.7 We are not concerned about potential barriers to changing our TANS providers. Provision for transition, access to and/or purchase of any required assets is provided for in our contracts to enable MAG to change provider should we choose.
- 2.8 The changes in TANS provider at a number of airports across the UK, which were referenced in the CAA's consultation document, demonstrate that there have been improvements in market conditions over the last five years and we welcome these. NSL was directly impacted by these changes.

- 2.9 Costs for air navigation services are taken into account in the setting of tariffs and negotiation of airport charges with airlines on a commercial basis. We actively compete for airline business, and as such cost pressures have an impact on the level of charges; there is no automatic ability to pass these costs through to airlines.



Rod Gander & Pedro Pinto
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45-59 Kingsway
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Guy Adams
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4000 Parkway
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PO15 7FL

8 December 2017

By email only: economicregulation@caa.co.uk

Dear Pedro and Rod,

Subject NATS (Services) Limited (NSL) response to CAA consultation on “Terminal Air Navigation Services (TANS) contestability in the UK: Call for evidence” (CAP 1605)

This letter sets out NSL’s response to the CAA’s document “Terminal Air Navigation Services (TANS) contestability in the UK: Call for evidence” (CAP 1605). We welcome the opportunity to help inform the CAA’s analysis and set out below our responses to the CAA’s specific questions.

The UK TANS market remains contestable. This is evidenced by both the CAA’s assessment of market conditions in 2015/16, and by more recent market developments.

In 2015 (CAP 1293), the CAA concluded that UK TANS was subject to market conditions, drawing on the decisions by Birmingham and Gatwick airports to change provider (from NSL to self-provision at Birmingham and from NSL to Air Navigation Solutions Limited (ANSL) at Gatwick). The new service providers have since started providing services at Birmingham and Gatwick.

The effective transitions of Birmingham and Gatwick airports not only demonstrate the overall scope for competition, but also the viability of the competitive process in the UK TANS market. The potential barriers identified by the CAA¹ have been successfully overcome. The transitions between TANS providers at Birmingham and at Gatwick are now effectively complete, with no issues in respect of the continuity, or quality of service².

Also, consistent with the characteristics of a competitive and contestable market, the supply of TANS is dynamic and has evolved since the CAA’s previous assessment; displaying the strength and depth of competition now taking hold across the market. For example, following the CAA’s earlier review, Edinburgh and Luton airports have also undertaken a competitive tender process for TANS (see our response to Question 2 and Table 1 below for more detail).

Edinburgh initiated a tender process in December 2015, with contract award occurring in June 2016. ANSL (a DFS subsidiary and the current TANS supplier at Gatwick) was the successful bidder and

¹ As described in CAP 1293, the potential challenges were: the relationship between NATS (Services) Ltd (NSL) and NATS (En Route) Plc (NERL); historical commitments to NATS employees, which could affect the availability of staff, or the terms and conditions of transferring staff; and a lack of competitive tenders and evidence of contracts changing hands. Events in the market, and the information set out in this response, show how each of these potential challenges have been addressed and overcome.

² Steer, Davies, Gleeve, “Review of TANS provider transition at Birmingham and Gatwick”, January 2017

transition commenced in July 2016. To date, all NSL major actions are progressing to plan and ANSL is due to commence operations in April 2018.

Since the CAA's last review in May 2015 the market has been very active. There have been a range of open and competitive tenders, contract negotiation processes and also airports changing to or from self-supply of TANS.

The TANS market continues to evolve in a competitive manner. It is contestable in that there are no statutory or other entry barriers, and evidence and data suggests that TANS is firmly subject to market conditions.

We respond to each of your questions below.

1. How do you find out about possible changes of TANS providers at UK airports?

We find out about possible changes of TANS providers at UK airports via several different routes. A number of airports have initiated public competitive tenders by advertising in the relevant journals. As part of this process, some airport operators will also contact NSL to invite a submission of a proposal. This is not an uncommon practice in a competitive market.

Where NSL has an existing contractual relationship with an airport operator, we will be aware of when contracts reach the end of their term. This is another source of information about possible changes in the provision of TANS.

Like other competitors, we also use market research and publically available market intelligence to find about possible changes of TANS provider.

2. Have you considered bidding for a TANS contract in the UK (Y/N)? If yes, for which airport(s)? If not, why have you not considered bidding?

NSL has been an active and competitive participant on a wide range of TANS bids in the UK which are described in the table below.

Bidding for TANS contracts can take a number of different forms, all of which are consistent with a competitive market process (and a competitive outcome). For example, it is well understood that contract negotiation (and re-negotiation) are a common, and often more cost effective, feature of open and competitive markets. Competitive tenders are self-explanatory. These various processes are listed in the table below, including TANS contracts where we were asked to re-tender and where the resulting negotiations generated further operating and cost efficiency benefits, providing an outcome similar to that of a competitive tender (e.g. Belfast International, Glasgow and London City³).

For completeness, we have also recorded contracts for TANS for which we have bid, or which have been negotiated, at airports with fewer than 70k instrument flight rules (IFR) air traffic movements (ATMs) per year. This provides further evidence of the extent of market conditions in the UK.

Airport Operator	Commercial (bid) process	Other participants	Outcome
Airports > 70k IFR ATM per year			
Edinburgh	Competitive tender	Yes	Switch from NSL to ANSL in 2018

³ It is recognised that a number of the airports listed in Table 1 and elsewhere in this response are below the ATM (IFR) threshold of 70k (instrument flight rules air traffic movements), however, these still provide a reference point and are also indicative of market conditions and the effects of a competitive market for TANS.

Glasgow ⁴	Contract negotiation (in parallel with Aberdeen and Southampton)	Bilateral	Renegotiated contract with NSL
London City	Contract negotiation	Bilateral	Renegotiated contract with NSL
Luton	Competitive tender	Yes	Currently in process
Airports < 70k IFR ATM per year			
Aberdeen ⁴	Contract negotiation (in parallel with Glasgow and Southampton)	Bilateral	Renegotiated contract with NSL
Belfast International	Contract negotiation	Bilateral	Renegotiated contract with NSL
Belfast City	Competitive tender	Yes	Switch from self-supply to NSL in 2016
Farnborough	Contract negotiation	Bilateral	Renegotiated contract with NSL
Southampton ⁴	Contract negotiation (in parallel with Aberdeen and Glasgow)	Bilateral	Renegotiated contract with NSL
3 other airports currently not in receipt of a TANS service from NSL	Market testing (benchmarking) exercise	Unknown	No alteration to existing TANS arrangements

Table 1: NSL bids - 2015 to date

As the table indicates, NSL was invited to submit formal proposals to three other airports where it is currently not the service provider, under strict non-disclosure agreements. These proposals supported market testing/benchmarking activities by those airports, and is further evidence of a competitive market.

3. Where you have been aware of a possible change of TANS provider at a UK airport did you bid? If not, why not?

Yes, where we have been aware of a possible change of TANS provider at a UK airport then we have bid. This is further described in our response to question 2.

4. What do you consider are the main barriers in offering or withdrawing TANS services at one airport, including any issues around the transfer of assets or staff? To what extent are those barriers surmountable? Can you provide evidence to substantiate your answer?

The transitions from NSL to an alternative TANS provider at Birmingham and Gatwick airports demonstrate that, where there are perceived barriers (e.g. staff (and associated remuneration arrangements) and the transfer of assets) - or transitional challenges in switching suppliers - these are surmountable in practice through appropriate planning and transition implementation.

In addition, these successful transitions have become a model for other airport operators and increased the confidence of other airports, e.g. Edinburgh, in their ability to choose an alternative provider (to NSL).

In the paragraphs below, we describe how perceived barriers have been surmountable.

⁴ Aberdeen, Glasgow and Southampton airports are owned by AGS Airports Group - the contract for TANS at each airport was negotiated and concluded at the same time at a group level.

Trust of a Promise (ToaP) related to staff transfers, secondments and other staffing issues

NSL has facilitated safe and professional transitions, by committing to support new TANS providers through contract extensions, training agreements and secondments post transition. At Birmingham 8 (out of 15) ATCOs subject to ToaP transferred to BAATL. At Gatwick 7 ToaP ATCOs initially transferred to ANSL and this has now increased to 9 (out of 22)⁵. At Edinburgh, 10 ToaP ATCOs (out of 21) are due to transfer to ANSL.

In summary, through the processes conducted by NSL, Birmingham and Gatwick demonstrate that this issue has also been overcome, and is not a barrier to entry, transition, or bidding. Furthermore, we would highlight that since the CAA's previous review, the proportion of control staff subject to ToaP has reduced at a number of airports, e.g. Glasgow, Manchester, London City and Luton. Table 2 sets out the percentage of ToaP controllers at each of the airports with greater than 70k IFR ATMs at which NSL is currently the TANS provider.

Airport	Non ToaP	ToaP	Total	% ToaP
Edinburgh	9	21	30	70%
Glasgow	15	16	31	52%
Heathrow	32	39	71	55%
London City	13	6	19	32%
Luton	18	8	26	31%
Manchester	21	34	55	62%
Stansted	15	16	31	52%

Table 2: ATCOs covered by ToaP at UK airports > 70k IFR ATMs where NSL is TANS provider (November 2017)

At Edinburgh, the principles governing secondment have been agreed and these represent a development on those previously agreed at Gatwick and Birmingham. The agreement clarifies each parties' risks and obligations (pre and post transition), and provides an extended period for transition above and beyond that required for an efficient recruitment and training programme.

Asset ownership

At Gatwick, NSL worked closely with GAL to offer options to purchase the Gatwick Control Tower outright (which GAL chose to do) or to provide a commercial rental agreement for use of the building by a new service provider. More generally, transfer arrangements for the equipment were provided for in Gatwick's contract with NSL, while the transfer of other property assets were separately negotiated.

In respect of Birmingham, we note that SDG's report on transition states that TANS asset ownership and transfer arrangements were demonstrated very effectively at Birmingham, where ownership of relevant TANS assets by Birmingham airport meant that the transfer process for equipment between NSL and BAATL was straightforward.

Other barriers

While acknowledging the potential transition risks relating to service disruption and operational resilience, we note again the conclusions in the SDG study that indicate no issues have emerged in terms of service continuity or quality of service.

While it is still some time before ANSL formally start providing services (June 2018), the transition at Edinburgh is progressing according to plan and NSL does not expect any issues. The experience of Gatwick, Birmingham and Edinburgh provide clear and compelling evidence that transition risk, in whatever form, is not a barrier to switching provider in the UK TANS market.

⁵ NSL has also adopted a flexible approach to transition. At Gatwick, for example, we permitted ANSL to offer seconded NATS staff a new package to attract them to work for ANSL. This resulted in two ToaP staff agreeing to take up employment with ANS.

5. Do you have any observations about recent changes in the UK TANS Market? Did that make you more likely to bid for other airports' TANS contracts in the future?

The UK TANS market is increasingly competitive, as illustrated by competitive tenders for the supply of TANS at Birmingham, Gatwick, and more recently, Edinburgh and Luton. Notwithstanding the option of self-supply, we note also that market conditions has attracted competitors into the UK TANS market, including ANSL, the Irish Aviation Authority, Peel Group, and SERCO.

Table 3 below provides an overview of some the recent tenders in which NSL has been involved and the range and type of bidder on each tender. The market would appear to be evolving with an increasing number of interested parties and potential bidders (entrants), while earlier market entrants like ANSL – with experience of successful bids and operations - are effectively competing across the TANS market.

Airport/Bid ⁶	Potential and actual competitors
Gatwick Air Traffic Services (ATS)	ANSL, Serco and IAA (Irish Aviation Authority)
Edinburgh Airport ATS	ANSL
London Luton ANS	ANSL, Serco, ACR (Aviation Capacity Resources)/Skyguide, Peel, Ports of Jersey Ltd (POJL)
Belfast City ATC ⁷	ANSL, LfV (Luftfartsverket)/POJL, Peel

Table 3: Overview of tenders and competitors

As a result of increased competition, knowledge gain and transfer has also been significantly enhanced across the industry. This reinforces buyer power, ensuring that airports can secure efficient and economic outcomes by means of leveraging market conditions.

Table 1 above outlined airports where NSL had been requested by the airport operator to (re)negotiate contracts, in many cases prompted by market conditions as opposed to specific contract terms, or contract expiry. In each case, where TANS contracts have been re-negotiated with airport operators, the outcomes have led to price reductions and other conditions. For example, the re-negotiated contracts all typically include challenging efficiency targets and enhanced quality of service requirements.

The recent changes in market conditions and the increased competitive dynamic ensure that NSL has to continually consider potential and actual entrants, and actively compete in all potential tenders, and contracts, in the UK TANS market.

6. Are you considering moving to new technology for TANS provision? If so, please give details.

Technological development can be a key determinant of efficiency and competitiveness, and new technology is very likely to be a feature of competition and market conditions. As noted in a recent ATM Policy Institute paper, “the adoption of new technologies would enhance the ability of ANSPs to compete by enabling them to offer differentiated products”⁸.

The majority of new technologies are incremental technological developments and do not create a barrier to entry, or switching. For example, NSL was the first UK TANS provider to implement Electronic Strips in towers (at Stansted), but Newcastle and East Midlands airports (where NSL is not the TANS provider) have followed this innovation. Birmingham airport is also in the process of implementing electronic strips. Other technological developments, like AutoMET (automated

⁶ It is recognised that currently only Gatwick, Edinburgh and Luton airports fall within the SES TANS framework.

⁷ Not an airport > 70k IFR ATMs, but included here for completeness.

⁸ Summary of discussion of the ATM Policy Institute workshop, “ATM reform: what is stopping it?”, 12-13 October 2017

weather reporting), TBS (time based separation), A-CDM (airport collaborative decision making) and DCB (demand capacity balancing), are all commercially available capabilities that only require operational integration (whether by the “incumbent” TANS provider or an alternative provider).

Where NSL is considering more fundamental technological change, we are mindful of the possible effect, if any, on entry barriers and transitioning factors. NSL is continually improving its services to all its customers, and to the extent this requires new technology in the provision of TANS, we seek to ensure that any implementation (hardware, processes and timescales etc.) is consistent with the demands and functioning of a competitive market.

A good example of this is the development plan for London City (LCY), and NSL’s work with LCY on the transition of the ATC service to the digital tower facility at Swanwick⁹. As explained to the CAA earlier this year¹⁰, despite the fundamental technological developments, it will be feasible for another provider to take the data from the relevant services at LCY. Indeed, there is nothing in the proposed set up of digital towers at LCY that would prevent another ANSP from competing effectively for the contract in the future.

Moreover, in NSL’s view, digital towers enhance market conditions by offering more choice about how air navigation services can be provided. All related assets are replicable (by other TANS providers), and the digital tower equipment installed to provide the service at LCY will be standard commercial off-the-shelf (COTS) equipment supplied by an industry supplier.

Given this, and the ease of access to data and other requirements, the digital tower development does not create any entry barriers. Therefore, it would not prevent an alternative provider from competing for the supply of the service (or developing an entirely different TANS related service at the same airport).

7. Do you also provide en-route services? If so, are those activities subject to separate accounting and reporting? Please give details. Do you provide en-route or other services under contract with NERL? Could those be provided by another provider?

NSL does provide a number of services in support of NERL’s en-route service, where this provides operational and cost efficiency to NERL’s customers. NSL supplies these services on an arms-length basis through separate Inter-company agreements (ICA) with NERL. The ICAs are reflected within NERL’s accounting and reporting arrangements.

The services include Delegated Functions, and the North Sea Helicopters Advisory Service (a specified service under NERL’s Licence). The services provided by NSL are economically, commercially and operationally distinct from TANS provision.

We do not consider that the provision of such services creates any form of barrier to the contestability of TANS. Should there be a change in the TANS provider, meaning that it is no longer appropriate for NSL to provide the en-route related service, NERL would look to resume the service provision or seek an agreement with the new provider.

8. Have you any other comments you would like to make?

Airport ownership

Changes in airport ownership are also having a competitive effect on market conditions. The market has shifted substantially in terms of the customer base that NSL (and other providers) now serve. This has had a significant impact on the transparency of NSL’s and other TANS providers’ cost base and market conditions more generally.

⁹ We note that SDATS have also recently been awarded a Digital Tower project at Cranfield Airfield

¹⁰ Email from Thea Hutchinson to Matt Claydon, 05 July 2017

For example, as a result of a change in ownership, MAG had the ability to compare the Manchester and the Stansted airport contracts. Similarly, GIP's experience at Gatwick airport will have informed the decision process and competitive tender at Edinburgh airport. As noted in response to Question 5 above, there is increasing transparency and knowledge transfer across the industry, some of which is driven by changes in ownership at the airport level and across the value chain.

Criterion 6 of Annex I of the charging Regulation

We note the reference in Annex I to the Regulation (Criterion 6) that an assessment of TANS may be carried out at individual airports, as appropriate. In our view, assessment of TANS on this basis would be incorrect. Such an approach would result in an arbitrary delineation of the market for TANS into separate and stand-alone economic markets. This would be at odds with all evidence and market experience to date, which illustrates the effect of the competitive dynamic across the entire geographic TANS market, e.g., multiple competitors at more than one airport etc.

We agree with the CAA's previous approach on this matter, specifically, that it does not consider it appropriate to consider TANS in the UK on an individualised basis, and according to market conditions, all airports have a realistic possibility of choosing from a reasonable range of different TANS providers.

Efforts made by NSL to effect a smooth transition to other providers

In assessing the contestability of the TANS market, it is quite natural to focus on the challenges faced by new entrants to the market.

However, we invite the CAA to note the considerable efforts that NSL has made to ensure the smooth transition to other providers, thereby supporting a competitive and open market.

Closing remarks

We note that we have a meeting scheduled with you on 21 December 2017 to discuss our response and any other questions you may have. We would appreciate if you could please send us additional questions in advance of the meeting so that we can prepare accordingly.

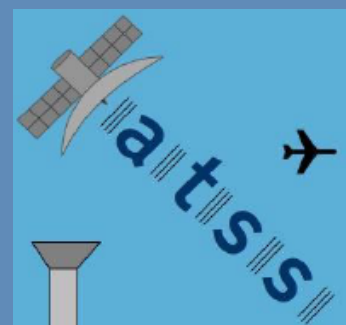
Yours sincerely,



Guy Adams
Commercial Director

Prospect ATCOs' Branch & ATSS Branch response to CAP 1605

*'Terminal Air Navigation Services (TANS)
contestability in the UK: Call for evidence'*



Introduction

This document sets out the views of Prospect's Air Traffic Control Officers' Branch (ATCOs' Branch) and Air Traffic Systems Specialists Branch (ATSS Branch) in response to the CAA call for evidence on market conditions for the provision of TANS in the UK. Prospect represents almost 2000 ATCOs and 1000 air traffic systems specialists within the UK air traffic management system and thus it represents key stakeholders in UK ATM and on matters relating to UK and regulatory issues.

We must therefore register our disappointment that Prospect is not recognised by the CAA as a stakeholder. The detailed questions in the consultation document are directed at airport operators, ANSPs and airspace users. What about the representatives of the staff working in TANS? As the trade union representing employees in multiple ANSPs and a key actor in the operation of the market – including the management of transitions between service providers - we provide this submission on behalf of the missing stakeholders: the people who provide the service.

The question asked is “whether the UK TANS market remains subject to market conditions”. In summary, our answer is: yes, but we question whether the encouragement of a competitive market has served the interests of stakeholders or the general public. The entire exercise should be subject to a cost-benefit analysis.

Context

In its previous review in 2015, the CAA concluded that recent developments in UK TANS demonstrated that market conditions were in place: i.e. the transfer of TANS at Birmingham Airport from NSL to an in-house solution and the transfer of TANS at Gatwick Airport to DFS-subsiary ANSL. Prospect supported this conclusion.

Since that time, there have been further developments in the TANS market, some of which are mentioned in CAP 1605. In particular:

- Edinburgh Airport has awarded the provision of air navigation services to ANSL
- Luton Airport has recently run a competition for the provision of the service there. It is our understanding that this process is nearing completion.
- NATS has implemented a strategic partnership with Heathrow, creating a different model for the management of the service
- NATS' contract at Manchester has been renegotiated and extended.
- Although not yet in place, the installation of a 'virtual tower' facility for London City marks the introduction of another model – potentially an additional source of competition, but one that also changes the capital structure of the ANSP element of TANS. This development should not be ignored in any analysis of the market.
- The outsourcing of the service at Belfast City to NSL.
- Very recently, the acquisition of SafeSkys by Air Partner plc heralds a potential new entrant to the market – in General Aviation, at least.

Out of the nine UK airports potentially subject to economic regulation under RP3 (Heathrow, Gatwick, Manchester, Stansted, Edinburgh, Birmingham, Luton, Glasgow, London City), three have changed ANSP in the last five years and in doing so have moved away from what was originally seen as the monopoly provider for airports of that particular size (over 70,000 IFR movements/year). One is currently out to tender.

The CAA commissioned Steer Davies Gleave to review the transitions at Birmingham and Gatwick. The consultants noted that:

The transition between TANS providers at Birmingham and at Gatwick is now mostly complete, with no issues having emerged in terms of the continuity or quality of service.¹

They went on to say:

The TANS market remains active, with the tender process at Edinburgh now complete and the transition there imminent, and other airports potentially putting their TANS provision out to tender.²

Although, in our view, the transition at Gatwick has not been without its difficulties, these have been managed through in-depth and sustained engagement with Prospect. The fact that service continuity and quality has been maintained is a credit to the team at Gatwick. Thus, there is nothing in the SDG report to suggest that the current position regarding contestability is wrong. We can report, too, that the transition at Edinburgh has gone smoothly to date and all the measures required under the TUPE Regulations have been addressed well in advance of the operational transfer. There is no doubt that the experiences at Birmingham and Gatwick have led to a growing maturity in the handling of such transfers which can only strengthen the argument that the market is also maturing.

That said, we also note the SDG recommendations concerning the CAA's guidance and support for the transition process. We have yet to see how the CAA proposes to meet those recommendations.

The current position

The assessment criteria are set out in Appendix A of CAP 1605³. We comment as follows:

- Criterion 1 (a) – the CAA has already concluded that 1 (a) has been achieved⁴ and we see nothing to change that conclusion
- Criterion 2 – the move from contracted provision of air navigation services at Birmingham Airport to an in-house model demonstrates this option; in addition, many smaller airports have had in-house TANS for years
- Criterion 3 – the recent tendering processes in a number of airports helps reaffirm the previous conclusion⁵
- Criterion 4 – the CAA has already concluded that this has been achieved, noting that both Heathrow and Gatwick airports are separately regulated by the CAA itself⁶. However, we note that airport operators tell us that the resilience and performance of ATC, plus the alignment of the service with the airport's objectives, takes priority over cost efficiency when deciding on provision
- Criterion 5 – there have been no changes to the structure of NATS – in either of its NATS En Route Ltd (NERL) and NATS Services Ltd (NSL) arms - in the last few years to warrant a change

¹

http://www.caa.co.uk/uploadedFiles/CAA/Content/Accordion/Standard_Content/Commercial/Airspace/Air_Traffic_Control/TANS%20provider%20transition%20review%20-%20Final%20Consolidated%20Report.pdf 3.8

²

http://www.caa.co.uk/uploadedFiles/CAA/Content/Accordion/Standard_Content/Commercial/Airspace/Air_Traffic_Control/TANS%20provider%20transition%20review%20-%20Final%20Consolidated%20Report.pdf 3.9

³ CAP 1605, Appendix A

⁴ CAP 1293, 6.2

⁵ CAP 1293, 6.10

⁶ CAP 1294, 6.13

to the previous conclusion⁷. We are assuming that the CAA has agreed with NATS the measures required to guarantee the separation – for legal and accounting purposes – of the virtual tower facility installed within the Swanwick site run by NERL.

- Criterion 6 – the CAA has already applied its own discretion on this⁸

Therefore in conclusion, considering that the assessment criteria for the purposes of this call for evidence have not changed since the last conclusion (in CAP 1293), coupled with the fact that the UK TANS market has actually shown itself to be more fluid since the last review, with a further contract in transition underway from NSL to an alternative provider, there is little doubt that the CAA should conclude that the TANS market remains contestable in advance of RP3.

Wider issues

This is not to say that everything is fine. Although we believe that TANS in the UK does operate in a contestable market, we believe the CAA should conduct a full cost-benefit analysis to determine whether the enforcement of a fully commercial and competitive market is the right approach for TANS. We note that the DfT's recent consultation⁹ proposes further liberalisation in this area. That must be based on an assumption that the injection of competition has been a success. We would challenge that assumption.

First, the new 'market' requires overheads to operate. Tendering is costly and there is a regulatory overhead - the CAA has to spend money on consultants, inspections and consultation exercises. We would be interested to know what the 'on-costs' are and what the return on that investment has been. We do not believe that the full cost of TANS has been reduced as a consequence of the market. And, in some cases, there may have been a negative impact when it comes to resilience; at a minimum, there is now an increased risk of operational disruption which we believe is, in large part, a product of the creation of a market.

The market is inevitably fragmented and there are new inefficiencies which were less likely to arise within a near-monopoly public service provider. For example, technology is likely to be cheaper if it leverages economies of scale when used for multiple operations and engineering support can be provided through clusters and service centres. The labour market for TANS staff is extremely tight and there is now a disincentive for employers to recruit and train new ATCOs and engineers – there is a considerable risk of staff leaving in early career, with means a lower return on training investment. There is a growing incentive to 'poach' staff from other units, thereby creating upward pressure on salaries in order to attract or retain the scarce staff available.

We have seen no study which demonstrates that costs come down and service quality is of a higher standard than if TANS were provided by a single entity. There is no doubt that there is a skills shortage when it comes to ATCOs and engineers. Increased labour mobility makes workforce planning more difficult. And a fragmented market means that a strategic approach to addressing these skills shortages is lacking. We fear that the provision of resilient TANS services (and ATC in general) is at risk. The contestable market provides no incentive for ANSPs to invest in their future workforce and can operate as a barrier.

⁷ CAP 1293, 6.15

⁸ CAP 1293, 6.16-6.19

⁹ <https://www.gov.uk/government/consultations/a-new-aviation-strategy-for-the-uk-call-for-evidence>

Finally, Prospect would like the CAA to consider the following in examining the market:

- Brexit – as stated in our response to CAP 1593, we do not see a compelling argument for the UK to continue to be bound by the EU performance scheme, post-Brexit. Economic regulation (with the associated targets and incentives or penalties around capacity, delay, environmental efficiency) will and should be a matter for the UK state to determine. At the time of writing, it looks as though RP3 will commence at the same time as a formal transitional period in the UK’s relationship with the EU. While we accept the logic for the CAA to follow broadly the same approach in planning for the regulation of NERL during this period¹⁰, this should not mean signing-up to every point of detail. We would welcome clarity on the CAA’s position: does the UK see RP3 being subject to endorsement or agreement by the European Commission?
- CAA general oversight – the CAA must strengthen its capabilities in terms of oversight if it wishes to continue the pursuit of contestable markets within ATM, a field which is a highly-skilled and safety critical. A balanced look at the perceived benefit of an open market against a measure of essential operational and system safety is of utmost importance.
- CAA oversight for transitional arrangements – the Steer Davies Glover report into the transition at both Birmingham and Gatwick airports highlighted a number of areas where CAA assistance in terms of oversight would prove useful in future transitional periods, and Prospect considers such support essential.
- Staff – there is no mention of the impact on staff at any level when assessing contestability in the TANS market. The ATCOs and engineers that we represent provide a safety-critical service within the aviation industry and the pursuit of contestability in the market has often led to uncertainty for our members both before and during transition periods. The CAA has a duty to be mindful of the resulting impact that a change of ANSPs at any TANS airport or otherwise has on the staff there.
- Virtual towers – as well as the impact of the new virtual tower facility for London City on the NERL-NSL interface, there is also a wider question: what are the implications of this new technology for the TANS market? In particular, it is likely to change the capital structure of TANS provision (at present the facilities are normally owned by the airport with the ANSP delivering know-how and the service itself). Prospect is supportive of the development of virtual tower technology and would not want to see that development distorted by an overriding government objective of the pursuit of competition for competition’s sake.

Prospect ATCOs’ Branch and ATSS Branch
December 2017

¹⁰ CAP 1593, 4



London Southend Airport's response to CAP1605 - Terminal Air Navigation Services (TANS) contestability in the UK: call for evidence

AIRPORT OPERATOR

1. Who provides TANS at your airport?

Self-supply.

2. When did the contract start?

N/A

3. What factors influenced the choice of contract length?

N/A

4. Who owns the equipment and infrastructure used to provide TANS at your airport?

LSACL

5. If you contract out, what do you plan to do when the contract expires?

N/A

6. What factors did you take into account in choosing whether to hold a tender before awarding the TANS contract? What was the determining factor?

N/A

7. If you have tendered, what were the main reasons for doing so? What process did you follow and what criteria did you use to select providers?

N/A

8. If you renegotiated a contract renewal, please tell us about the negotiation. How did the talks commence and what were your key requirements from the provider?

N/A

9. Do you plan to consult airspace users before making any future decision on TANS provision? If so, how are you planning to do so?

No

10. What do you consider will be your main priorities for your next TANS contract?

Cost, reliability/resilience of the service, the business direction of Stobart Aviation.

11. Are you considering moving to new technology for TANS provision? If so, please give details.



Yes. LSACL are still developing a future technology requirement in line with operational growth. Key elements of this will be:

Data transfer (ATC to ATC, ATC to Airport), Electronic Strips, Radar, AutoMet.

12. Are you concerned about any potential barriers to changing TANS provider, including any issues around the transfer of assets and staff, or including any existing interactions with en-route services?

No

13. Do you have any observations about recent changes in the UK TANS Market? Do the changes make you more likely to tender in the future?

There is clear evidence that the TANS market for the larger UK airports is competitive, however, the evidence for regional airports suggests that TANS provision is largely through self-supply. There appears to be a more limited scope for small to mid-sized regional airports to find a cost effective way of tendering for an outsourced TANS provision.

LSACL believes that there are currently two key drivers when considering outsourcing TANS provision:

- Risk of transition.
- The pressure in the ATCO labour market.

The key pressure on regional airports who self-supply is the ATCO labour market. Demand is currently outstripping supply and the 'market rate' for an ATCO has shown significant inflation in the last 2 years. It is evident that this has been exacerbated by a number of elements:

- Manpower planning strategies by the larger ANSP's.
 - Generally caused by the competitive nature of the TANS market at the larger airports and the drive to lower contract costs through a reduction in staff. This means there has been a lack of resilience as the aviation industry has recovered from recession and the only way to recover quickly is for NATS and ANS to recruit from the open market.
 - The training pipeline being stagnant or at historically low rates.
 - Enhanced pay models and Terms and Conditions structure.
 - Technology improvements being slower to implement than envisaged.
 - The inability for larger ANSPs to move staff about their business.
- Staff retention policies – 'golden handcuff'
- Attraction of working at larger airports or for a larger ANSP.

Most regional airports have lost staff to NATS or ANS and this has created additional cost and operational issues that is difficult to manage and/or recover quickly from.

Do you consider that your existing provider is more aware of the potential competitive forces in the TANS market?

N/A



14. To what extent can you pass the costs of air navigation service charges on to users? Do you operate in a competitive environment and/or are you subject to economic incentives designed to cap prices or reduce costs? Do you actively compete for airline business?

LSACL operates in a very competitive environment and actively competes for airline business. The cost of Air Navigation Services is not separated, but does form part of the overall charging regime along with all other airport costs. Full separated pass through at current traffic levels would make charges uncompetitive.

15. Do you have any other comments you would like to make?

- A. ATCO Training** - there is clear evidence to suggest that demand on the Global ATS training college (realistically the only training college available in the UK at the moment) will be high for the next 18 months. LSACL have a good relationship with Global ATS but course availability is becoming more limited as NATS and ANS use the Global ATS facility. It is recommended that the CAA monitor the situation so that access remains fair to all ANSPs.
- B. LARS provision** – Evidence suggests that some ANSPs are reducing or removing LARS. LSACL is committed to continue to provide this service for the benefits of the ATM system in a complex piece of UK airspace. It is also important for the smooth integration of training aircraft from the surrounding GA airfields with controlled airspace and the enhancement to safety. The CAA (in support of DfT) should monitor the situation and ensure that reduction in service by other airports is not a way of managing manpower issues to support Airport contract commitments.
- C. Anecdotal evidence** suggests that ANS pulled out from the recent **Luton Airport** ATC tender process to concentrate on the transition at Edinburgh and the operation at Gatwick. There is also evidence that suggests that it is still difficult for other ANSP bidders to be successful against NATS and ANS. The CAA should investigate why other bidders have not been successful.

ANSP

1. How do you find out about possible changes of TANS providers at UK airports?

Business intelligence, contacts in the industry, general discussion with stakeholders.

2. Have you considered bidding for a TANS contract in the UK (Y/N)? If yes, for which airport(s)? If not, why have you not considered bidding?

No. LSACL is not in a position to bid for contracts at this stage, however, it will be considered as part of the overall business strategy for the ANSP.

3. Where you have been aware of a possible change of TANS provider at a UK airport did you bid? If not, why not?

LSACL (Stobart Aviation) has not bid for any recent tenders. See above.

4. What do you consider are the main barriers in offering or withdrawing TANS services at one airport, including any issues around the transfer of assets or staff? To what extent are those barriers surmountable? Can you provide evidence to substantiate your answer?

N/A



5. Do you have any observations about recent changes in the UK TANS Market? Did that make you more likely to bid for other airports' TANS contracts in the future?

[See above.](#)

6. Are you considering moving to new technology for TANS provision? If so, please give details.

[See above.](#)

7. Do you also provide en-route services? If so, are those activities subject to separate accounting and reporting? Please give details. Do you provide en-route or other services under contract with NERL? Could those be provided by another provider?

N/A

8. Have you any other comments you would like to make?

[See above](#)

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“Terminal Air Navigation Services (TANS) contestability in the UK: call for evidence (CAP 1605)”

Sent by email to economicregulation@caa.co.uk

Introduction

Virgin Atlantic welcomes this opportunity to respond to the above CAA document.

Firstly we would agree that there has been development of market conditions within the UK TANS, which is evidenced by changes in service providers at airports such as London Gatwick, Birmingham and soon to be Edinburgh. However, we are not yet convinced that this has led to a fully functioning market which is delivering benefits to airspace users.

We do acknowledge (and welcomed) the European Commission’s agreement with the UK on the establishment of market conditions for TANS in 2016, but to date, as airspace users, we have not yet been in a position to fully endorse that assessment. Whilst the various changes in TANS provision at UK airports is encouraging, more information is needed to be made available as evidence of how changes in provision is benefiting airlines and their passengers through reductions in airport charges, but not at the expense of safety and airport / airspace capacity.

Please see set out below our responses to the specific questions raised in this document.

1. Have any airport operators, whose contract for the provision of TANS is coming to an end, consulted you on the potential way forward/options for new set-up? If so, what was your response to them?

Virgin Atlantic has had very limited contact from airport operators regarding TANS provision, albeit possibly because of our airport usage in the UK(?). At London Gatwick there was information-sharing and engagement from GAL, but this was more for airline briefings on the changes, rather than a formal engagement process. However, for the record, the engagement from GAL was positive and effective in terms of managing the transition from NATS to ANSL, but it was not consultation that would or might have impacted the tender process for a new TANS provider. Importantly however we do not have any sight of the changes in costs at Gatwick as a result of the change in service provision.

It is also worth noting that at London Heathrow the 2015 re-negotiation of the NATS contract was done by HAL without any airline consultation or engagement.

2. Are there any developments in the UK TANS market since the transition of services in Birmingham and Gatwick that you wish you raise that you think will be relevant to our review?

With these changes still relatively new and with the change at Edinburgh to be accomplished next year, airspace users (airlines) are, we believe, still monitoring the outcomes of the changes. It would seem prudent and welcome, for the CAA to monitor the safety and operational performance of the TANS provision post any change, with the possibility of a formal review taking place to ensure no degradation of services.

Other than new technologies that may come into play in the provision of TANS services, such as remote tower operations, we have no other observations at this time.

3. Have you any other comments you would like to make?

Virgin Atlantic would support the CAA considering whether airline consultation should be a formal requirement for changes in TANS provision that airport operators seek to make and this would be particularly relevant at the regulated airports.

Without evidence to the contrary that changes in service provision, whether a new provider or extensions of existing arrangements benefit airspace users, it is quite difficult to fully evidence TANS market conditions in the UK.