

Response ID ANON-9238-C43A-1

Submitted to **Strategic outcomes for the economic regulation of NERL 2020-2024**

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About you

1 What is your name?

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3 Are you answering this consultation as a/an:

Resident or community group affected by aviation

Strategic outcomes for the economic regulation of NERL 2020-2024

4 Are the proposed three strategic outcomes the right ones to guide our future regulation of NERL in the period 2020-2024?

Yes

5 Please explain your answer to Question 4.

free-text answer to expand on the answer given in the previous question:

At a headline level we have no objection to the three strategic outcomes proposed. However, as discussed in our detailed response, we believe that the focus on delivering increased capacity in UK airspace, particularly under outcome 1, is inappropriate and concerning.

We strongly endorse the suggestion that outcome 3 should include a new service quality incentive relating to the adverse effects of noise and other emissions on people who are overflown. Our experience is that NERL pays little attention to this currently. We would like to see it become a core part of the regulatory toolkit in the UK, alongside other measures to reduce the adverse effects of noise.

6 Is there additional context or background information we should consider in developing our approach to the strategic outcomes?

Yes

7 Please explain your answer to Question 6.

free-text answer to expand on the answer given in the previous question:

It is remarkable that the current regulatory arrangements for NERL make no reference to environmental impacts. Its operations have a very substantial impact on the noise environment near airports and under flight paths many miles from them. But the June 2016 ATS licence contains only two mentions of the word "environment". In each case this is simply about environmental performance measured in terms of "flight efficiency and enabled fuel saving". There is not a single mention of the words "noise", "people", residents, or "communities". This cannot be right. NERL's economic regulation arrangements should take a far more active approach to noise, requiring the company to reduce, control and mitigate the noise impacts of its operations. We believe this would be consistent with the CAA's duties under Part 2 of the CAA Act 2012.

We are very concerned at the presumption in the document that airspace changes intended primarily to increase capacity must proceed in RP3. We do not agree that "it is critical that airspace change is delivered over the period 2020-2024" (page 5) or that there is a "need for significant airspace modernisation to address future increases in air traffic especially in the south east of England".

We find it difficult to see how the CAA can insist that proposals which deliver capacity growth should proceed but then be the arbiter of whether any such proposals which are airspace changes are consistent with all the criteria set out in section 70 of the Transport Act 2000. We question whether this represents a conflict of interest. Airspace change is a regulated process governed by Statute and guidance. We are concerned that the CAA's independence in determining whether to give its consent to airspace changes (and particularly whether any change takes proper account of the environmental guidance given to it by the Secretary of State) should not be compromised by an absolute requirement that such changes must proceed.

Airspace changes, and the Future Airspace Strategy as a whole, should only proceed if they properly balance the interests of the industry and its customers with those of communities adversely affected by the environmental harms caused by aviation. Amongst other things that should, in our view, mean that any growth in air traffic movements at UK airports must be conditional on a directly proportionate and enforceable reduction in noise and particularly where noise levels exceed those recommended by the WHO.

8 Have we captured the right issues within each of these strategic outcomes?

No

9 Please explain your answer to Question 8.

free-text answer to expand on the answer given in the previous question:

We do not agree that the objective of any regulatory measure(s) should be for noise to be "appropriately managed so that capacity can be optimised without communities being unduly affected" (para 2.39). We believe this language betrays a lack of recognition by the CAA of the adverse effects aviation noise has on communities and an incorrect prioritisation of objectives. Noise should be minimised avoided, prevented and reduced first because that is the right thing for any responsible industry, government and regulator to do and secondly because the law, the Environmental Noise Directive, the Secretary of State's environmental guidance and numerous government policy documents require it. It should be a core regulatory objective in its own right not something traded for more capacity.

We have not considered in detail how any noise-related service quality incentive arrangements should be structured, but offer the following initial thoughts:

- They should include a general principle that NERL must take all practicable measures to be make itself aware of and to minimise the adverse impacts of its operations on the health and well being of overflowed people, communities and businesses.
- There should also be a specific noise service quality incentive. This should be SMART (Specific, Measurable, Attainable, Relevant and Timely).
- The latter should incentivise the arrivals and departures routes and configurations that minimise adverse noise impacts whilst being consistent with fair and equitable dispersal or respite principles to be agreed on an airport-by-airport basis.
- They should create meaningful financial incentives. We do not believe that 1% of annual revenue is likely to achieve the behavioural changes required.

10 Is our timetable appropriate?

No

11 Please explain your answer to Question 10.

free-text answer to expand on the answer given in the previous question:

We would like noise related performance incentives to be introduced as soon as practicable. We encourage the CAA and NERL to consider their introduction during RP2, as an indication of the industry's and the regulator's willingness to embrace much needed change urgently.

12 Do you have any other comments arising from our discussion document?

free-text answer to give any further comments on our discussion document:

No.

Please note that this response is submitted jointly by the Aviation Communitites Forum and Stop Stansted Expansion.

Confidentiality

13 Do you consent for your response to be published?

Yes, with identifying information (name, email, respondent category, additional information)