



## **IATA Response: Draft UK Reference Period 3 Performance Plan proposals (CAP1758)**

### **General Consultation Remarks**

- The remarks provided herewith are supplementary to our submission of 30 November 2018 in response to the NERL rBP.
- The CAA's proposed approach to airspace modernization captures well the high priority which the airline community places on this essential reform.
- The CAA's characterization that NERL is a relatively low risk business is consistent with the airline community views.
- The airline community is mindful that the domestic and oceanic plans operate under different regulatory frameworks under different jurisdictions. We understand that the approach to regulation of oceanic services will be separated from the domestic RP3 Performance Plan in due course and we encourage the CAA to provide greater transparency on the process for concluding the regulation of oceanic services.
- The recent conclusion of the process to set EU-wide RP3 Performance Targets provides an opportunity for the UK to ensure that its approach adequately contributes to and meets all consistency criteria. The airline community broadly supports the level of ambition proposed across the 4 KPA's within the Draft UK RP3 Performance Plan proposal.

### **Chapter 2, Safety Consultation questions**

- The level of ambition proposed for the Safety KPA within the Draft UK RP3 Performance Plan proposal is supported.
- It is expected that the NERL proposal to set internal aspirational safety targets at a more detailed level will be the subject of specific customer consultation.

### **Chapter 3, Environment Consultation questions**

- The level of ambition proposed for the Environment KPA within the Draft UK RP3 Performance Plan proposal is supported.
- For the additional UK indicator – 3Di, the adjustments proposed by NERL are not supported by the airline community.
- Proposed approach to defining the RP3 CDO monitoring reference height.
  - The rationale for the CDO monitoring threshold to be 5,500 feet above aerodrome level, *“to avoid flights being recorded as non-CDO due to any level segments that might occur as a result of the 6000 feet transition altitude or routine holding at flight level 70 (FL70) in the London airport holding stacks”* is not considered adequate justification.
  - The benefits of applying a harmonized CDO monitoring altitude of 7000 feet, as proposed by EUROCONTROL, should be fully analysed for implementation during RP3.

### **Chapter 4, Capacity Consultation questions**

1. Draft proposals for the targets for capacity metrics and the associated financial incentives; and
2. Draft proposal to introduce modulation for the C2 metric for material variation between forecast and actual traffic volumes.



- The level of ambition proposed for the Capacity KPA within the Draft UK RP3 Performance Plan proposal is supported for C1, C2, C3 and C4.
- The proposed approach to C3 and C4 exemption days is broadly supported, noting that the number of days in the cap and consultation with users requires further elaboration to ensure full understanding.
- The approach to incentives for C1 and C2 is not supported. The rationale for a symmetrical incentive does not take proper account that NERL should not need to be further incentivized to deliver capacity. The airline community seeks a simplified incentive that introduces a penalty where the agreed service level is not delivered.
- The approach to modulate the C2 metric is not supported.

### **Chapter 5, NERL RP3 costs Consultation questions**

1. Assumptions for operating costs, non-regulatory revenues and capital expenditure to support the calibration of NERL's price control and the Determined Costs in the UK performance plan;
2. Regulatory Policy Statement in respect of our pensions policy; and
3. Governance and incentive arrangements relating to NERL's capital expenditure and whether NERL should have a new licence obligation to support and drive forward airspace modernisation.

- The level of ambition and the approach proposed for NERL operating cost efficiency within the Draft UK RP3 Performance Plan proposal is broadly supported.
- The proposal for a reduction of 2.3% per year in operating costs per CSU commencing from 2019 is supported as is the proposed approach to pension costs.
- The approach to acknowledge the criticality of airspace modernization is supported. In particular the proposal that NERL be allowed all of its forecast spending on airspace modernisation and a level of efficiency challenge on non-airspace capex (92%, including the £34 million contingency) is supported. A licence obligation specifically to drive airspace modernization is supported.
- Improvements to the SIP or other shared governance processes will be critical to delivering the required performance during RP3 – program stability and improved transparency will be essential.

### **Chapter 6, Overall costs Consultation questions**

The forecasts of Met Office costs, the UK's share of Eurocontrol costs and CAA costs.

- The proposed evolution of the CAA cost base over RP3 is for a 38% increase, including a staff cost increase of 143%. Whilst a level of staff cost increase is supported in relation to key activities such as airspace change, the airline community cannot support the proposed increase without a greater level of transparency and justification.

### **Chapter 7, Financeability Consultation questions**

- The draft proposal for NERL's RAB for RP3 is noted, in particular the impact of a reduced level of capital expenditure as proposed by the CAA is supported.
- The draft proposal for inflation (RPI and CPI) is noted.
- The draft proposal conclusion that strong evidence exists "pointing to a sharp reduction in the pre-tax WACC since RP2, which has not been properly reflected in NERL's RP3 business plan" is strongly supported by the airline community.



- The draft proposal for a real (in RPI terms) pre-tax WACC for NERL of 2.84% is considered to be at the very upper end of the justifiable range. The airline community encourages the CAA to review its proposal downward noting the compelling evidence available, including:
  - recent market trends and regulatory precedent that point to sharp reductions in expected equity returns and the risk-free rate since RP2;
  - further evidence on risks that NERL faces relative to the market that point to reductions in the required cost of equity;
  - reductions in the cost of new investment-grade debt and the relatively high proportion of new debt that NERL expects to raise during RP3; and
  - reductions in the estimated effective tax rates for NERL.

### **Chapter 8, London Approach Consultation questions**

- The draft proposal to include Biggin Hill in the scope of the regulated London Approach charge for RP3 is not opposed.
- The proposal to retain the current charging arrangements for London Approach in RP3 with the current approach to the allocation of costs is not opposed.

### **Chapter 9, Uncertainty mechanisms Consultation questions**

- The proposal to retain the default mechanism for traffic risk as defined in the performance regulation is not opposed.
- The proposal in relation to traffic alert thresholds is supported noting the RP3 regulation offers additional protection to NERL compared with RP2 by including an IFR movement threshold.
- The cost risk sharing arrangements in the performance regulation significantly reduce risk to NERL. Additionally, the proposal to support the capital expenditure contingency allowance further mitigates NERL's costs risk. The approach to capital expenditure contingency is supported however, we emphasize that the airline community considers enhanced SIP governance as a prerequisite to the use of these funds.
- The Opex Flexibility Fund proposal is supported noting the potential use for both capital and operational expenditure within a targeted scope of the AMS. Application of the enhanced SIP governance is a prerequisite to the use of these funds.
- The AMS Support Fund is supported in concept. The eligibility criteria, governance and decision-making arrangements require clarification before the AMS Support Fund should be included in the UK Performance Plan. The airline community expects that any governance mechanism will be fully reflective of our role in funding the system.

### **Chapter 10, Terminal Navigation Services Consultation questions**

- The proposal to retain London City within the scope of the performance scheme, Charging Zone B is supported. The consistency of approach over multiple RPs is considered significant enough justification.
- The CAA conclusion that the provision of UK TANS is subject to market conditions for RP3 is noted.
- The CAA proposal for TANS capacity target is noted. The analysis of delays caused by weather is an aspect on which the airline community seeks greater transparency with regard to ATM operational practices.



## Chapter 11, Oceanic Consultation questions

1. The approach to determining the building blocks and the proposed values of those building blocks;
2. The decision to reject NERL's proposal of a pass-through approach ADS-B data costs to users;
3. The proposed governance and performance monitoring arrangements regarding the costs and benefits of ADS-B; and
4. Whether the Oceanic price control should have a traffic risk sharing mechanism and whether Oceanic charges should be profiled or not.
  - The draft proposal to include Space-based ADS-B services and charges is not supported.
  - The airline community rejects the proposed nearly 60% increase in charges.
  - The rationale to implement Space-based ADS-B services on safety grounds has not been justified by a safety case.
  - The draft proposal to require the NATS Board to certify that it is operating a fully ADS-B-based service for its Oceanic airspace to be permitted to recover the costs will only partially address the benefits aspects of the proposed service and remains open to interpretation and application.
  - The draft proposal fails to properly address the issue of conflict of interest, considering NATS Holdings Limited ownership of NERL and NSL and its shareholding arrangements of Aireon the supplier of Space-based ADS-B. This is particularly the case in relation to the cost-efficiency of the proposal.
  - The airline community is aware that the planned supplier of Space-based ADS-B proposes a global charging model ranging from \$40USD per flight hour to \$1USD per flight hour depending upon airspace characteristics. (**Attachment 1**)
  - The airline community understands, based on publically available information and correspondence, that the global cost of providing the Space-based ADS-B service is less than \$1USD per flight hour. (**Attachment 2**)
  - The proposal that the highest tier charge of \$40USD per flight hour be applied within airspace managed by ANSPs with shareholdings in the supplier of Space-based ADS-B, gives rise to related party transaction concerns.
  - The NATS, ICAO NAT SPG and CAA cost-benefit analysis contain a flawed assumption for reduced separation standards applicable for the baseline; reduced latitudinal minima and reduced longitudinal separation minima (related to PBCS requirements) as compared with Advanced Surveillance-Enhanced Procedural Separation using Space-based ADS-B. Considering the marginal nature of the CAA assessed net benefits, the benefits case requires revision. (**Attachment 3**)
  - The proposed draft does not address the concerns for potential competition impacts in relation to the NERL approach for a 12-year contract term with the Space-based ADS-B supplier.
  - The draft proposal does not provide adequate justification for the implementation and charges for Space-based ADS-B services from 2020. The airline community requests the CAA to adopt an approach similar to that for RP2, by deferring any decision to implement Space-based ADS-B services and charges until such time as the airline community can support the cost-benefit case. The airline community would be supportive of an annual review process.