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Title	Requirements for air traffic services
NPA Number	NPA 2016-09(A)

UK CAA (European.Affairs@caa.co.uk) has placed **8** unique comments on this NPA:

Cmt#	Segment description	Page	Comment	Attachments
129	2.5. Interrelation with the SERA Regulation	10 - 11	<p>Page 10-11 and 53</p> <p>Paragraph No:</p>	
	3. Regulatory impact assessment (RIA)	53	<p>NPA 2016-09(A) 2.5 Interrelation with the SERA Regulation NPA 2016-09(A) 3.1.1.2 The current EU ATS regulatory context NPA 2016-09(A) 3.1.1.3 Transposing ICAO ATS provisions into the EU aviation safety regulatory framework</p> <p>Comment:</p> <p>The UK CAA observes that, while the need to align Part-ATS with extant regulation is alluded to, there is no explicit explanation as to how EASA foresees continued synchronisation of Part-ATS content with its source ICAO material.</p> <p>A robust 'maintenance' process is essential to ensure timely transposition of future amendments to ICAO Annex 11, Doc 4444 and other ICAO source material affecting Part-ATS. It is additionally required to capture any changes to other EU regulatory material that impacts on Part-ATS. Rulemaking and safety promotion programme including EPAS 2017–2021 refers to RMT.0719 'Regular update of ATM/ANS rules (IR/AMC/GM)' however NPA 2016-09 makes no reference to the RMT. EASA is invited to provide insight into how RMT.0719 'Regular update of ATM/ANS rules (IR/AMC/GM)' is to be managed in practice. Although EASA has a process in place to make suggestions on how States should respond to ICAO material and help them respond, States still have rights and obligations to ICAO including the ability to make national differences. This raises the potential of different national approaches to ICAO material impacting on EU legislation and supporting EASA AMC/GM and the need to have a way to resolve these, agree EU differences where needed and make appropriate changes to the regulatory package (i.e. Rule/AMC/GM).</p> <p>Justification: Requirement for a process to deal with amendments to the legislation and agreement on what this will be.</p>	
131	2.6. AFIS requirements	11 - 12	<p>Paragraph No: 2.6</p> <p>Comment: The ICAOs ATM Ops Panel has commenced activity to replace ICAO Circular 211 on Aerodrome FIS with a manual that will be substantially based upon EUROCONTROL's Manual of Aerodrome FIS. As such, there are provisions within the EUROCONTROL manual which the UK CAA believe will be retained within Circular 211's replacement that are either not contained within, or will supersede the proposed Part-ATS text. It is understood that the future ICAO manual will be published and take effect after Part-ATS is published</p>	

in the Official Journal, but before Part-ATS takes effect in EU law. The UK CAA considers this lack of synchronisation and the potential ramifications of such to be a significant issue.

Consequently, notwithstanding comments made by the UK CAA on specific provisions proposed within NPA 2016-09(b), we strongly advocate that the most appropriate course of action is for the Agency to withdraw the proposed provisions relating to aerodrome FIS from Part-ATS pending completion of ICAO's work. The Agency should thereafter undertake rulemaking activity to transpose ICAO aerodrome FIS requirements into Part-ATS. Any need for parallel activities to develop organisational, technical and licensing/training requirements should be considered at this time and Member States consulted on these in the appropriate manner. See also UK CAA comment against EASA's questions to stakeholders relating to the implementation of AFIS provisions.

In its comments on NPA 2016-09(b), the UK CAA has made a clear argument for aerodrome FIS officers to be permitted to provide instructions to aircraft, persons and vehicles on the manoeuvring area on the grounds of proportionality and safety. The loss of the authority to provide such instructions causes significant safety concerns to the UK CAA. Moreover, the potential mitigations to such safety concerns are considered to be either disproportionate, or would pose significant economic disbenefits to UK aviation industry.

Given this and the other national variations in AFIS provision within Europe that the UK CAA is aware of, the scope of *current* rulemaking affecting AFIS provision should be reduced in order to allow for later, synchronous rulemaking that takes full account both of ICAO's replacement AFIS manual and the need to allow sufficient flexibility of AFIS practice amongst Member States. A convergent approach is advocated.

Justification: Ensuring timely synchronisation with ICAO requirements; maintaining levels of safety at AFIS aerodromes and ensuring that EU regulatory materials remain proportionate.

Paragraph No: 2.7.1.1 Point (c) of Article 3(1d)

Comment: The UK CAA agrees that the Annex 11 requirement to take "adequate steps... to prevent emission of laser beams from adversely affecting flight operations" should be **considered** for transposition into the EU regulatory framework and for responsibility for any resultant actions to be attributed to Member States.

However, the UK CAA does not agree that Article 3(1) of the ATM/ANS Common Requirements Regulation is the most appropriate vehicle for this provision and would expect the Commission to determine any **actual** need and an appropriate vehicle in this regard.

Arrangements within the UK to prevent emission of laser beams from adversely affecting flight operations are linked directly to legislation. The Air Navigation Order 2016 prohibits the use or direction of any light at any aircraft which is likely to endanger the aircraft or dazzle or distract the pilot of the aircraft (Articles 224 and 225) and prohibit the reckless or negligent endangerment of an aircraft (Article 240). Further legislation is also being proposed within the 'Modern Transport Bill' which specifically addresses the 'offence of pointing a laser at a plane or other moving vehicle'.

135 2.7.1. Amendments to the ATM/ANS Common Requirements Regulation and to the upcoming ED Decision

13 - 50

			<p>The legislation is then supported by a number of other documents. CAP 736 'Operation of Directed Light, Fireworks, Toy Balloons and Sky Lanterns within UK Airspace' provides AMC and GM to organisers of events involving laser light, the approval and oversight of which is conducted by the competent authority. The UK CAA also publish CAP493 'Manual of Air Traffic Services' which provides AMC and GM to ATS providers on the actions to be taken when notified of approved laser displays that may affect aircraft, and on the receipt of a report of an aircraft or ATS installation being maliciously targeted by a laser.</p>	
137	2.7.1. Amendments to the ATM/ANS Common Requirements Regulation and to the upcoming ED Decision	13 - 50	<p>Paragraph No: 2.7.1.3.2, ATS.OR.465</p> <p>Comment: The UK CAA agrees that value can be obtained from allowing the recording of background communication and the aural environment at ATCO workstations and that, in principle, the requirement should be extended to all ATS units. From the perspective of aviation related investigations, the insights that can be gained on the contextual factors affecting the performance of ATS personnel are invaluable. However, the UK CAA has a number of concerns related to the way in which EASA proposes to transpose the recommended practice from Section 3.3.3 of Annex 11 into the EU regulatory framework.</p> <p>The recording of background communication and the aural environment at ATCO workstations is analogous to cockpit voice recording (CVR), which is a long-established and accepted practise. However, in accordance with CAT.GEN.MPA.195, the use of CVR data is restricted to those events involving an accident, an incident that is subject to mandatory reporting, or for 'other purposes' subject to the consent of all crew members and maintenance personnel concerned. Detailed AMC has been provided to support such use of recorded data to prevent its misuse. The Agency's proposals in relation to ATS.OR.465 do not constrain the use of the recorded data and the UK CAA strongly believes that this should be addressed in order for the principle of recording the aural environment to be acceptable. Given that the Annex 11 recommendation stemmed from the BFU's investigation report into the MAC over Uberlingen, it is reasonable to argue that the purpose of the recommendation is to support accident investigation. However, the UK CAA believes that the scope of the provision should be further developed to mirror that detailed in CAT.GEN.MPA.195.</p> <p>The next consideration is that, in the absence of AMC and/or GM to guide the ATS provider on how the provision should be implemented, it is possible to comply with the requirement in such a way that the recorded data provides no value to a safety investigation. The UK CAA is therefore concerned that the development of prescriptive supporting AMC regarding methods of recording could result either in excessive implementation costs or could produce a requirement that was not technically feasible to deliver at all ATS units. Furthermore, the negligible increased safety benefit that recording the aural environment would bring may not offset the costs of implementation; particularly if the use of the data was restricted to support accident investigation alone and would thus be utilised less often.</p> <p>The UK CAA supports the principle of recording of background communication and the aural environment at ATS units, but believes that the Agency needs to reconsider the way in which such a requirement is incorporated into the EU regulatory framework. The</p>	

			<p>UK CAA proposes refinement of ATS.OR.465 such that that the equipage requirement is specified by the competent authority. We further propose that, subject to EASA clarifying and resolving the issues identified in the UK CAA's technical comments on ATS.OR.465, this provision should be further developed to indicate how background communication recordings are to be used. The UK CAA proposes that this content is derived from those elements of CAT.GEN.MPA.195 relating to the use of CVR data. The Agency can then propose AMC and GM to ATS.OR.465 akin to AMC1 CAT.GEN.MPA.195(f)(1) and GM1 CAT.GEN.MPA.195(f)(1).</p> <p>Proposed Text: The UK CAA proposes that ATS.OR.465 contained in NPA 2016-09 Part B is amended to read as follows:</p> <p>"When so prescribed by the competent authority, air traffic control units shall be equipped with devices that record background communication and the aural environment at air traffic controller work stations."</p> <p>In addition, EASA are requested to develop further text within ATS.OR.465 relating to the retention and use of the data and are further requested to develop AMC and GM to this provision, based on AMC1 CAT.GEN.MPA.195(f)(1) and GM1 CAT.GEN.MPA.195(f)(1).</p>	
139	2.7.1. Amendments to the ATM/ANS Common Requirements Regulation and to the upcoming ED Decision	13 - 50	<p>Paragraph No: 2.7.1.4.2, AMC6 ATS.TR.210(a)(3)</p> <p>Comment: The UK CAA does not support the proposal to remove the flexibility permitted in PANS-ATM 6.5.7.1. EASA has not justified its removal other than by an implied harmonisation benefit. The UK CAA is of the opinion that its removal will adversely impact upon ATS and airspace safety, capacity and efficiency.</p> <p>The UK routinely exploits the flexibility permitted in PANS-ATM 6.5.7.1 by issuing an EAT when a delay of 20 mins or more is expected. Given the high density/high complexity nature of TMA operations in the UK, it has been determined that, at times, it is not feasible for an ATS unit to determine an EAT and transmit it to the aircraft for a delay of less than 20 mins; to do so would significantly increase controller workload and RTF loading. Particularly given the UK's position in relation to mainland Europe and the Atlantic and the need for interaction between UK ANSPs and ACCs in adjacent FIR/UIR to pass EATs.</p> <p>The UK CAA does not believe that it would be appropriate to specify an alternative single value within AMC6 ATS.TR.210(a)(3) as suggested. There is no particular operational or safety benefit in harmonisation across the Member States - such a value is better, and more appropriately, determined locally based on local air traffic conditions. Therefore flexibility provided within PANS-ATM 6.5.7.1 for competent authorities to determine an alternative period is to be retained.</p> <p>Proposed Text: The UK CAA proposes the following amendment to the proposed text for AMC6 ATS.TR.210(a)(3)(a) contained in NPA 2016-09 (B):</p> <p>"(a) The appropriate ATS unit should determine an expected approach time for an arriving aircraft that will be subjected to a delay of 10 minutes or more, or such other period as has been determined by the competent authority."</p>	
140	2.7.1.	13 -	<p>Paragraph No: 2.7.1.4.2</p>	

	Amendments to the ATM/ANS Common Requirements Regulation and to the upcoming ED Decision	50	Comment: Longitudinal separation minima based on Mach number are not applied in UK territorial airspace; however, they are used in Oceanic airspace within which the UK provides ATS.
141	2.7.1. Amendments to the ATM/ANS Common Requirements Regulation and to the upcoming ED Decision	13 - 50	<p>Paragraph No: 2.7.1.4.3, penultimate paragraph</p> <p>Comment: The UK CAA interprets the text of ICAO Annex 11 4.3.2 and 4.3.3 as relating to automated, routine broadcasts of information rather than 'discrete' broadcasts of information by licensed ATS personnel for specific purposes. On that basis, the UK CAA supports EASA's proposal not to transpose Annex 11 4.3.2 and 4.3.3 text on OFIS broadcasts. Moreover, we are not aware of the provision of any such OFIS broadcasts on HF and/or VHF within the EU.</p>
142	3.4.7. Open questions to stakeholders	75 - 76	<p>EASA poses a number of questions to stakeholders relating to the implementation of AFIS provisions:</p> <p>Question (a) Notwithstanding differences between Member States regarding the issuance of instructions to aerodrome traffic on the manoeuvring area, the UK CAA believes that the provision of aerodrome FIS to aircraft in the air is broadly consistent amongst Member States. The safety challenges faced today in relation to pilot situational awareness (as implied within NPA 2016-09's RIA) would not be resolved by increased harmonisation of aerodrome FIS provision in isolation as it does not address the fundamental pilot situational awareness issue. The UK CAA therefore does not believe that harmonisation of aerodrome FIS provision alone would bring about the anticipated safety benefits. Indeed, harmonisation of aerodrome FIS provision as proposed could unnecessarily introduce safety disbenefits through the potential to remove at potentially considerable cost a number of safety barriers and mitigations which have been long established and are proven effective. Such safety barriers have evolved over time and are reflected, in part, in the Eurocontrol AFIS Manual that is informing ICAO's work to replace Circular 211.</p> <p>Progression of Part-ATS's proposed AFIS changes appears to undo and contradict (without sufficient justification) the Eurocontrol AFIS Manual and in time the proposals are likely to run counter to ICAO Circular 211's replacement. Rulemaking would be necessary to revise Part-ATS to reflect Circular 211's replacement, thus generating work for EASA, turbulence amongst regulators, ATS providers and airspace users, and incur rule development/implementation costs. This can be avoided in a pragmatic manner by removing AFIS provision proposals from Part-ATS (thus enabling Member States to both meet their obligations to ICAO whilst continuing to apply Eurocontrol AFIS Manual provisions). Given that NPA 2016-09 states that 'safety risk analysis shows that there is no impelling safety driver to regulate AFIS', the Agency can, in the foreseeable future, undertake rulemaking to achieve convergence/harmonisation of AFIS requirements based upon the new ICAO AFIS Manual and in a less turbulent and more cost-effective manner.</p> <p>Question (c) The UK CAA believes that, as industry continues to seek to target resources more effectively and efficiently, ANSPs will increasingly consider the replacement of air traffic control service at an aerodrome with aerodrome FIS. This is likely to be particularly true at those aerodromes where traffic is predominantly general aviation with low levels of commercial air transport activity.</p>

