

# CAA Consultation on Approach to Terminal Air Navigation Service (TANS) Regulation

## Heathrow Response

Date: 8<sup>th</sup> January 2014

Prepared by: Kathryn Greenhalgh

## 1. Introduction

Heathrow welcomes the opportunity to comment on the CAA's approach to Terminal Air Navigation Service (TANS) regulation in RP2. In this response we provide our comments on the CAA's approach, and the various supporting papers provided. Our comments are focused primarily on the CAA's approach to the regulation of TANS and the issue of lack of transparency on costs and the consequent implications for competition for TANS in the UK. Although we provide comments on NSL's business plan we have not provided any comments on the CAPITA benchmarking study as much of the information has been redacted.

## 2. CAA's Approach to Regulation of TANS for RP2 (2015-2019)

The UK model of TANS providers operating via private contracts is still fairly unique in Europe where the majority of TANS are still provided by public owned enterprises holding a monopoly. Although new privately owned ANSPs have been established, competition to provide TANS at tier 1 airports and in particular for busy complex airports like Heathrow, is still in its infancy.

Though the CAA recognises that there is a lack of competition for UK TANS in its advice to the DfT on market conditions for (CAP 1004 – February 2013), ultimately the approach being proposed in the consultation document falls short of the CAA's new primary duty to further passengers' interests. Despite the fact that the CAA concludes in its advice that one of the barriers to competition is transparency of costs it has stated in its approach that only cost information at an aggregated airport level will be published as commercial contracting for TANS should provide the mechanism for achieving cost efficiencies. As stated in our response to the CAA's study of market conditions, Heathrow would need a minimum two, ideally three credible alternatives in order to conduct a full competitive tender process which we do not expect in the medium term, and certainly not in the next 12-24 months when we will expect to begin our tender process. We therefore do not agree that cost transparency will necessarily be achieved at Heathrow via a competitive tender process given the lack of available competition in the TANS market.

Under the Civil Aviation Act 2012 the CAA's new duties cover the promotion of competition for airport operational services and the costs of those services. EU No 391/2013 also states in paragraphs (2) and (4) that a charging scheme 'should help to increase transparency with regard to the determination, imposition and enforcement of charges applicable to airspace users' and 'should promote cost and operational efficiencies'. As representatives of airspace users we need to ensure our airlines receive value for money efficient service. We agree that the wider publication of data should be limited to a consolidated view but where the CAA has concluded that market conditions are not present the approach should ensure that an airport receives a level of cost transparency that would enable them to determine a value for money contract and thereby deliver a cost efficient service to its users. Where such no market conditions are present, at the very minimum ANSPs should be required to share information on return on sales with individual airports. In addition, individual airports should ideally have access to their own airport total costs data (EU 391/2013, annex II, table 1) that are required to be provided by Air Navigation Service Providers (ANSP's) to the European Commission.

Heathrow agrees with the CAA's aim within the document to avoid regulatory interventions that could frustrate the achievement of a competitive market and we agree that regulation should not

cut across the provisions in current contracts. We also concur that the publication of contract prices and costs is commercially sensitive and that the wider publication of this information could deter market entry, innovation and cost efficiencies.

Set against this background Heathrow has high expectations for productive negotiations with NATS over the next year that will deliver a more competitive priced outcome.

### 3. NSL Draft RP2 Business Plan (2015-2019)

Heathrow welcomes NSL's first ever business plan. The Air Traffic Management system is complex. To operate and improve this system within the UK's finite airspace requires significant investment and collaboration between all key players including airports, ANSP, regulator and airspace users. A critical aspect is that each of the stakeholder's investments and objectives are aligned to drive and enable the necessary improvements in performance to be realised. We therefore believe the development of the NSL draft business plan will form a key part of the modernisation of the ATM system in the UK. Principally, we agree with the priorities set out by NSL in the document. However, there are a few comments we would like to make.

One area which we believe is not adequately addressed is the full scope of the SESAR deployment. It is likely the airport and ANSP will be required to make investments and we would like to further understand the impact this will have on the NSL business plan. We agree that automation of ATC functions will be a significant enabler for reducing cost but these are only briefly mentioned in the document. A greater emphasis is needed here. In addition, the document is not clear on the scope or timeline associated with these developments and how they link to the SESAR deployment.

The use of arrival management systems/procedures has been acknowledged in the Future Airspace Strategy (FAS) as a key area for improving adherence to the schedule. The recent Davies' Commission report also made reference to ATC's role in improving adherence to the schedule and called on NATS to lead efforts in this area. Heathrow's business focus is to operate the daily schedule with the required resources based on this plan. Operating in this manner can significantly improve the passenger experience and efficiency. As such adherence to schedule is a key performance indicator. The document does not provide any details of how NSL will contribute to this critical development or how it will work with NERL and other ANSPs to make changes to the ATM system and associated procedures to improve adherence to schedule.

In terms of delays, and ATFM delays in particular, we agree that there are a complex range of factors that can influence these figures. However it is not clear if the ATFM delay figures shown in figure 11 for Heathrow at the end of the RP2 occur after the investments made by both the airport and NATS to support Heathrow's business plan and the FAS.

Another area where we feel there could be greater transparency and where the plan does not go far enough is in the area of costs. We note that NSL's plan will deliver a 2% average annual real reduction in unit costs per flight compared to 2014. We understand that this planned level of cost reduction is based upon contracts established on the same scope of service (and therefore the same level of cost) and an average increase in 2% forecast traffic levels. We disagree with the supposition that a 2% increase in traffic would necessarily lead to a 2% increase in NSL's

cost base and even if that was so, it is unacceptable for NSL to only deliver cost savings through increased traffic volumes. As stated above, without access to the underlying cost data it is impossible for us to establish whether or not the NSL contracts deliver a cost efficient service to airspace users. This is inconsistent with benchmarks prevailing in both other regulatory sectors and competitive markets.

#### 4. Conclusion

We look forward to continuing to contribute to this important debate. The NATS contract at Heathrow remains one of our largest single costs and therefore in the context of the challenges it is essential, in the absence of a fully competitive market, that the CAA's conclusions on NATS align and support their aggressive efficiency conclusions for the economic regulation of Heathrow for the next regulatory period.