



# **A Submission on the CAA/IAA Draft UK-Ireland RP2 Performance Plan Consultation Document**

4<sup>th</sup> April 2014

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## Structure of Document

Throughout this document, for ease of cross-referencing, we have attempted to follow the structure of the Draft UK-Ireland RP2 performance plan consultation document, and have mostly restricted our report to commentary on the UK sections of the consultation, with a few noticeable exceptions. Where the CAA has asked a question, we have indicated the question (Q) with our response.

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The NTUS (NATS Trade Union Side) is the trade union body representing staff within NATS, and is made up of 3 constituent groups, Air Traffic Control Officers, Air Traffic Systems Specialists, and Support Staff, through two recognised Trade Unions, Prospect and PCS. We welcome the opportunity to respond to the consultation taking place on the RP2 Performance Plan for the UK/Ireland FAB.

Our members in NATS undertake a range of functions and have continued throughout CP2 and CP3 to make a fundamental contribution to the aviation industry and the interests of the travelling public in terms of safety, historically low levels of delays, developing capacity and dealing with increasingly complex airspace, as well as making a number of financial sacrifices set against the changing nature of the business and requirements of the stakeholders. All of this has to be seen against the incredible backdrop of no form of industrial action in our sector for over 32 years.

Air Traffic Control, particularly given the nature of UK airspace, requires long term and consistent investment, not simply in terms of technology and equipment but also in terms of staffing and training. It is also clear that collaboration cross-boundary is now a priority and has potential benefits, but that has *only* to be for the right reasons, not just for political expediency given the nature of our operations. Our members are rightly proud of what they have been able to achieve over the past number of years and safety has always remained the heart of what we do, and that should continue through this consultation and into RP2.

We recognise that amongst stakeholders there are conflicting priorities, for example between cost and the need to develop capacity, and differing interests in terms of delivery, as well as Environmental concerns coming to the fore. We also recognise the challenges in terms of seeking stakeholders to look to the long term in the face of pressing and very immediate commercial pressures. We urge the CAA to be cognisant of what has been achieved in the UK to date set against stakeholders business ambitions. With increasing economic pressure on NATS, there is a significant danger that the sensitive equilibrium could be disturbed, which will not permit ongoing business benefits to be released to all stakeholders. We seek to continue to contribute to the growth of both our organisation, and our industry.

The NTUS believes that appropriate and timely Social Dialogue is crucial to the successful implementation of the Single European Sky and the harmonious operation of NATS on a day to day basis. We are proud of our ability to engage constructively with NATS thus far and have a long history of recognising issues and working to resolve them. As progress on SES (and through that, the performance scheme) continues, the challenges facing both NATS and its employees are continuing to grow. Effective social dialogue will be a pre-requisite to ensure that whatever the solutions are, they are delivered successfully, and that there must be recognition that staff are key stakeholders. Without effective engagement and buy-in, progress will be hampered.

### KPA Safety

Introduction of Safety Performance Targets (rather than Indicators) is welcome, particularly on the establishment of 'Just Culture', however we do not believe the target around Just Culture training is sufficient or adequately defined.

We question the robustness of the plan for achievement of safety performance given the challenging cost-reductions in the Draft Performance Plan which go further than the NATS Revised Business Plan.

### KPA Capacity

The NTUS are broadly supportive of the capacity targets which closely follow the CP3 approach, however we would wish to see retention of a bonus opportunity against C4 performance.

We recognise the different nature and complexity of the airspace across the FAB and therefore believe that it is appropriate to set UK specific capacity targets.

### KPA Environment

We support the approach to the use of 3Di metrics as opposed to a simple horizontal efficiency measure. We do not support the approach of a penalty associated with the introduction of TA and believe that a more appropriate target would be to identify an appropriate incentive/penalty associated with the implementation of LAMP.

### KPA En-route Cost Efficiency

We do not endorse the level of cost-reduction either in the NATS Revised Business Plan or the further reductions envisaged through the measures proposed by the CAA in the Draft Performance Plan and believe that the viability of the DPP as a whole is undermined by these adjustments.

The NTUS challenges the reliability and quality of the findings presented by IDS and hence challenges the CAA's amendment of staff costs in the Revised Business plan.

Both on the question of Pay Progression and on the allowance for the Employee Share Scheme we do not accept a position whereby the regulator is seeking to micro-manage the business and seek withdrawal of a contractual term and condition of employment.

Were NATS to pursue such attacks on current staff Terms and Conditions during the RP, we see significant likelihood of industrial unrest which risks undermining delivery of the efficiency measures envisaged in the NATS Revised Business Plan.

## **TANS**

We believe that it is important to recognise signs of the emergence of a contestable market. As the ANS services at UK airports are provided through commercial contracts, the focus should be on the delivery of value, with incentivisation for the ANSP to deliver on capacity and delay. It would be perverse if innovation at airports was to be stifled through arbitrary price reductions where the larger airports already have their charges to airlines regulated.

## **Interdependencies**

The NTUS would consider that there is a considerable 'gap' in the analysis of interdependencies between the KPAs. The Draft Performance Plan provides no evidence as to how the interventions proposed by the CAA are balanced or how these will affect the overall achievability of the plan and the resultant impact on four KPAs are not determined.

## **DSOT as part of FAB**

The NTUS rejects the value of the DSOT trial as part of the UK-Ireland FAB. We contend that the cost of the scheme is in direct contravention of the performance scheme aims.

We also contend that concepts of free route airspace and dynamic sectorisation have been confused and that without appropriate Social Dialogue is likely to lead to industrial disharmony in the UK.

## **Social Dialogue**

We bring forward a proposal on the introduction of a Local Performance Indicator and an associated target on Social Dialogue.

The Safety KPA is welcomed as an inclusion as a KPA for the first time in RP2. This is an excellent opportunity to give safety the level of focus needed and to drive real improvement. We do not necessarily agree that the Draft Performance Plan in general gives rise to increased levels of safety as there is no evidence to suggest this. NATS' own position states that the plan will only provide the same level of safety in so far as the 13% reduction only compensates for the predicted level of traffic increase.

We also have a concern that safety could suffer as a result of the other challenging aspects of the plan. Although it is noted that 'safety assessment of change' methodology has taken place, there is little detail other than vanilla statements. We question the robustness of this methodology considering the impact of staff reductions is not yet known, and that the introduction of new technologies within NERL is not yet properly defined.

### KPI 3 Just Culture (JC)

**Q** What would your organisation consider to be the safety benefits in having a documented policy on JC at FAB level?

The NTUS would like to see a requirement on the demonstration of effectiveness of JC at a FAB level. As some of the FAB initiatives will perhaps result in the operating of airspace across the FAB by different ANSPs it would be desirable to ensure that a harmonised level of JC is found in each ANSP, as this will ensure consistency in open reporting, and the enhancement of safety behaviour.

**Q** Is the scope of the Joint Policy Statement sufficient?

The NTUS is very supportive of Just Culture and its importance in driving safety improvement. The joint policy statement is welcomed, although the decision tree (fig. B.1) is too constraining and it is accepted that within NATS the application of JC has evolved from such a rigid structure.

The introduction of JC training and a target is welcome. There is some concern that the consultation document could be open to confusion between the requirements set out in the Draft Performance Plan and the use of the word 'exhort'. We would encourage that there is real clarity around the level of expectation of compliance, in order that ANSPs have a consistent approach and level of application of a FAB JC policy.

- Q Are the JC targets on training at NSA and ANSP level considered an appropriate recognition of JC and sufficiently ambitious within the FAB context?
- Q Are there other areas of JC you consider would be helpful in establishing a greater understanding of its application in relation to ATM throughout RP2?

We have some concern that a meaningful target has not really been defined. The plan delivers an action plan requiring elements of JC training and is quite prescriptive on those matters, but doesn't specify any actual target other than training, or suggest how to demonstrate an improvement in JC.

As JC will be measured by the EC questionnaire we would suggest that it might be more beneficial to use the questionnaire results as a benchmark to drive improvement, e.g. those answers, which result in a 'no' answer, could be required to be a 'yes' by the end of RP2. ANSPs should then be required to deliver relevant training in order to embed JC sufficiently throughout the organisation and enable JC to become a sound element of the safety culture within it.

This should then drive NSAs and ANSPs to develop and implement the relevant training programmes and education to embed sound just culture. The proposed groups of staff in the current DPP in our view are mis-targeted especially with respect to 'personnel required to undertake safety occurrence investigations'. Whilst it is understood these roles require a sound knowledge of JC, these roles are to investigate based on fact and not sit in judgement of the causal factors, and certainly not to apply any penalty. NATS over RP1 has, in our view suffered from an inconsistent approach to JC and it is imperative that all grades which sit in judgment of operational staff, as well as all staff in safety critical and safety related roles themselves are provided with robust just culture training.

Q Do you consider the adoption of a FAB capacity target in line with the Network Manager Reference Values for the UK-Ireland FAB appropriate?

The NTUS are broadly supportive of the capacity targets and does consider them as appropriate. We do have concerns on the maturity and accuracy of the Eurocontrol data and would wish to ensure that there is no detriment to the assessment of NATS performance as a consequence of using this over NATS' own data.

Q Do you consider the scope and function of the proposed FAB capacity incentive mechanism appropriate?

We are broadly supportive of the scope and function of the FAB capacity incentive, given that it builds on the arrangements in RP1 which had a general level of consensus, with a particular focus on the impact of delays.

Q Do you consider the weighting of capacity incentives on NERL appropriate?

It is important to reward and incentivise continuous good performance by NATS in a balanced manner, as demonstrated by both the C2 and C3 measures. We also recognise the potential for penalties where there is a shortfall in expected performance. We believe that the principle of incentivisation should equally extend to performance against the C4 target such that NATS may pro-actively tackle systems issues that may give risk to risk of significant delay.

Q Do you consider the proposed approach to incentivisation for the capacity metric C4 appropriate?

We note that the C4 target relates to system events which are unforeseen, although there is a tension between the ability to deliver resilience of the NATS infrastructure and the on-going requirements for cost-reductions which affects the ability of NATS to mobilise resources in the event of a major system incident. We believe that it would be appropriate to incentivise NATS to improve system resilience through applying a bonus rather than just penalty around the C4 metric.

Q Do you have any other views on the FAB or UK-only capacity targets?

We believe that it is appropriate to set UK specific targets given the different nature and complexity of the airspace.



Q Do you consider adoption of the Network Manager Reference Values as FAB targets for the horizontal flight efficiency appropriate for RP2 in the UK-Ireland FAB?

The NTUS supports and shares the view of both NATS and the CAA with the issues set out in 5.3 of the consultation document. NATS has well developed experiences of the 3Di measurement process, and its clear gains using vertical profiling will be more beneficial than just those in the horizontal plane. In the UK's complex airspace it must be noted that without the technological improvements which allow free route airspace to be delivered, the scope for en-route horizontal efficiency improvements will be limited. We would also draw to the attention of the CAA that airspace users often fail to utilise existing arrangements with their own flight planning processes to use existing efficiency initiatives. All too often our members intervene tactically to provide more efficient routings, due to the lack of ability of the users to use their systems and knowledge to take advantage of efficiency arrangements. However we accept that the EC targets still require a contribution and we agree that the proposed UK-Ireland FAB targets are appropriate. Given that it has been identified the UK - Ireland FAB can take a more mature approach to environmental aspects than the EC targets, we also are supportive of the approach set out in figure 5.1 of the consultation document.

Q Do you consider the approach to incentivisation for the proposed UK 3Di KPI and implementation of a harmonised Transition Altitude of 18,000 ft. appropriate?

We have significant concerns, and do not support the proposals surrounding the penalty and timetable for the UK Transition Altitude target setting. This project is complex, part of a much wider project and has many different stakeholders, which are outside NATS' control. Although a key enabler for LAMP with the resulting safety benefits, there are concerns around additional safety issues that will be introduced particularly around FIR boundaries. To dictate a timescale with no reference to the interdependencies with the larger LAMP project and to introduce a penalty is irresponsible and will lead to a rushed, ill thought through solution, which we are concerned that NATS may implement to avoid the said penalty. It is our view that to penalise the ANSP on a specific project before consultation is poor regulation and akin to micro managing the project.

A much more appropriate environmental target would be to attach some sort of incentive/penalty to the implementation of LAMP or significant parts of LAMP to provide a total solution in service of the environmental 3di methodology and airspace efficiency as a whole.

Q Do you consider the proposed 'cap' and 'collar' calculation as 33% of the par value an appropriate level at which to set the maximum bonus/penalty payments?

We do not consider the calculation to be at an appropriate level at 33% as it appears arbitrary and without an empirical base, or have any evidence to support it.

Q Do you consider the deadband proposed to be at an appropriate level?

We have no specific objections to the deadband.

Q Do you have any other views on the FAB or UK-only environment targets?

We consider that the proposed CAA 3Di par value is unnecessarily stringent in its reduction over RP2.

We have yet to see the rationale to show how it will be possible to reduce this par value set against the planned traffic increase, particularly given the busy airspace in the South East.

Having a stronger target may require intervention which will detract from the delivery of LAMP, where the real benefits are to be found.

**Q** Do you consider the proposed UK en-route cost efficiency targets demonstrate sufficient contribution to and consistency with the EU target for cost efficiency?

As the CAA Executive Summary highlights, the proposed UK target for en-route cost efficiency (5.3% DUC reduction p.a.) is significantly more challenging than the EU wide target (3.3% DUC reduction p.a.) and it is therefore difficult to assess the UK's contribution as anything other than making a sufficient contribution to the EU target for cost efficiency. The real consideration should be whether NATS will be able to realistically deliver the amended Revised Business Plan when it is required to meet cost savings that are more onerous than that set out in its original Revised Business Plan. The CAA has not presented evidence that further cost savings could be achieved where shareholder expectation is likely to be similar to that experienced in previous price control periods.

The NTUS were presented with the NERL RP2 Business Plan last April and the company embarked on a cost-cutting programme which included a significant number of redundancies. Whilst we have worked with the company on the reductions in posts and associated costs, the Trade Unions have concerns over the ability to deliver on the overall plan. The NERL Revised Business Plan and the further reductions in Opex which the CAA proposes as part of this plan are not, and cannot be, endorsed by the NATS Trade Unions.

The NTUS has worked with NATS to implement changes to the NATS Pension Scheme based on the requirement to have a sustainable funding level and to address the size of the deficit. We would not accept the proposition that further changes should or can be made, and if any attempt to do so was not in line with the principle of honouring the existing pension promise to staff, this would risk industrial unrest and jeopardise the Working Together relationship with NATS and the Trade Unions that has been largely responsible for delivering significant transformation of the NERL Business without the disruption seen in some of our European neighbours.

**Q** Do you have any other views on the UK en route cost efficiency targets?

The NATS Trade Union Side is satisfied that the CAA approves of NERL's proposed staffing profile over RP2 however very many of the proposed amendments made for Staff Costs, DB Pensions, and Employee Share Scheme, clearly impact to the detriment of staff. There is also potential for the proposed amendment for contingency to be to the detriment of staff. We touch on each of these areas later.

Our overall assessment of the DPP is that we do not support the CAA's adjustment to the proposed revised determined cost projections. The effect of the reduction of NERL Determined Costs to £2612.4m from NERL's estimate of £2732m will mean a reduction of over £100m over RP2 or more than £20m each year. We question whether the NERL Revised Business Plan is deliverable with this reduction – at the very least the timing and affordability of various projects could be impacted.

Whilst we appreciate the CAA's general aversion to making allowance for contingencies, our concern is that there will be a great many uncertainties and external dependencies in RP2 that will mean provision for contingency is justified. Many projects such as LAMP, Transition Altitude, the investment programme, deploying SESAR all depend on external factors that are outside of NERL's control. Indeed one of the CAA's justifications for approving the proposed capex programme is because it considers 'there are significant benefits to users of the timely delivery of the capex plan in terms of fuel savings and the longer term benefits of technology change.' Our concern is that curtailing operating costs too far will impact on the ability to deliver the capex programme. It is worth emphasising that the training requirements aligned to the capex programme will require engagement and co-operation of staff.

There is a real risk that staff terms and conditions will come under attack as a consequence of NERL's reduced income. If staff are to bear the brunt of a cut in operating costs then this will potentially lead to industrial unrest which may manifest itself not just with industrial action but also non co-operation, reduced flexibility and greater levels of absence.

## Staff Costs

### **The NTUS challenges the proposed amendment to the Revised Business Plan for Staff Costs which represents a reduction of £15.7m.**

NERL had assumed an increase of pay rates in RP2 of CPI+0.25% p.a. with a further increase in pay for progression of 0.30%. In contrast, the Draft Performance Plan makes no allowance for a general drift in salaries in each category of staff due to increments and therefore finds it would be inappropriate to allow for pay progression as a whole over RP2 in excess of CPI. NTUS contends that the NERL assumption on pay increases and the more constrained assumption made by the CAA are extremely ambitious. It would put NERL staff pay rises behind not only inflation (as measured by RPI) but additionally and quite substantially, behind likely trends in rises in earnings elsewhere in the private sector.

If NATS wishes to make an increase of more than CPI (including for progression payments which are currently contractual) then it must fund such increases from additional efficiency savings elsewhere or at the expense of shareholders. Though the CAA says that it is not seeking to impose a cap on pay, NTUS questions the position whereby the Regulator does not make allowance for an item (pay progression) that NATS is contractually bound to award to staff, especially where a CPI increase is likely to be behind market trends.

It is not quite true to say (as the IDS Report does) that ‘As ATCO and ATSA graded staff make up more than half of the workforce, a majority of NERL staff receive pay progression on the basis of length of service (up to grade maxima)’. While it is true that the majority of staff are eligible to receive progression payments, we know that the majority of staff are on their grade maxima already. Consequently, the monies invested in progression are much lower than might seem to be the case and probably made to around two in five staff. Furthermore, NTUS believes that the organisation derives value from the progression system as it progresses specialist staff to the rate for the job and such staff are effectively being underpaid against the rate for the job until they are at the payband maximum. Pay progression is also key to retaining staff.

The Draft Performance Plan places reliance on the IDS report commissioned by the CAA assessing the efficiency of NERL’s total employment costs (the so-called benchmarking study). The NTUS challenges the reliability and quality of the findings presented by IDS and hence challenges the CAA’s amendment of staff costs in the RPB. Given our concerns about the quality of data and conclusions outlined in the IDS Report we would ask the CAA to disregard or at least heavily discount any reliance it places on the Report in reducing the allowance for Staff Costs. We firmly believe the amount of the reduction for Staff Costs should be revisited and we draw particular attention to the following:

- There have been no days lost to industrial action in NATS in the last 32 years. This represents three decades of industrial harmony at a current terms cost of £50m per day were UK airspace to be closed. Interfering with fundamental staff terms and conditions risks upsetting that relative equilibrium. There is a genuine risk of industrial disputes arising particularly given the significant headcount reduction both before and during RP2 and the ongoing cost efficiency measures which impact on staff (including non- staff costs).
- Office of Budgetary Responsibility (OBR) economic growth forecasts have been increased since the Autumn Statement in December 2013 and the OBR has forecast that average earnings are expected to grow faster than CPI inflation this year and keep pace with RPI inflation next year. This expected growth should be taken into account in the calculation of the allowance for staff pay increases (currently restricted to CPI in the Performance Plan) as such a constraint would lead to staff pay falling behind the private sector.

## Employee Share Scheme

We note that the CAA identifies the Employee Share Scheme as ‘anomalous’ and therefore proposes to exclude this element of cost from the plan. As with the position concerning pay progression, this is an existing contractual commitment which forms an important part of employees’ remuneration package. We oppose a position whereby the Regulator is seeking to influence withdrawal of a contractual term and condition of employment. We think it likely the disallowance of this cost will result in withdrawal of this benefit which would be viewed by staff as a significant erosion of their remuneration package and is important culturally within NATS since the organisation was part privatised. We would like to set out the context and justifiability of the share scheme.

When the NATS PPP was established it was intended to give employees a greater share in the Company given that there is clear alignment between employee and Company performance. This arrangement under Trust means that there is no market where shares can be traded, other than between the employee and the Trust. The ‘buy one get one free’ is less costly than the arrangement that existed when the PPP was established when free shares were issued, and meets with HM Revenue and Customs allowance.

We do not agree that this share arrangement is anomalous or perverse given that there are a number of Companies offering similar, or indeed more generous, arrangements (examples include Aviva, First Group and Lloyds Banking Group) and the costs of the scheme are not unreasonable – around a half a per cent of NERL’s total running costs. Very few employees have the maximum shareholding due to length of service or sale of their shares. The current average holding per employee in NERL is valued at £4612 but the shares would have to be held in the Plan for five years before the full value can be realised. In our view this benefit promotes staff motivation and retention and therefore represents good value for money and is not out of line with the Coalition Government’s support for employee share ownership as seen in the recent sale of Royal Mail

Prospect and PCS formally responded to the initial CAA consultation on Terminal Navigation Services back in January 2014, where we set out our position.

### Q Do you consider the proposed UK terminal capacity target appropriate?

The NTUS considers that the proposed UK terminal Capacity targets are generally appropriate, with the exception of Heathrow which is constrained primarily by infrastructure. Whilst the ATS provider can make small changes with initiatives such as Time Based Separation (TBS), this ability is limited and should be more reflected in the target.

### Q Do you consider the proposed approach to UK terminal cost efficiency appropriate in the context of developing a contestable market in terminal ANS?

The NTUS' position on whether we consider the UK Airports market to be contestable has been set out previously, but we remain concerned that the regulation is imposing targets upon ATS providers who are already engaged in difficult commercially based contract negotiations at the UK airports we have members at. The regulation could potentially force NSL to renegotiate some of their current binding contracts without due regard for the structure of these contracts, or the cost structure within them, leading to undesired outcomes for our members, and subsequently to the Airports and Users.

By forcing cost reduction, there is no leeway allowed for an ATS provider to add value or additional services into the contract, which is one of the many innovative ways NATS and our members are engaging with the Airport community. By just reducing cost, we would also argue you are reducing value for money as you force the ATS providers to strip all but the essentials out of the Operation, thereby not allowing additional support, services, or skills to be shared with the Airports, or for contingencies. By driving down individual contract costs, the CAA restrict the potential for innovative solutions such as a 'group' bid, where more than one airport in a business group is contracted to a single ATS provider, often providing additional value to the Airports, and the Users.

The NTUS understands the need to regulate certain airports, but we contend that at economically regulated airports such as Heathrow and Gatwick, the CAA is essentially forcing dual regulation onto the ATS providers as it is inevitable that an Airport Operator with a reduction in revenues will push down hard on its suppliers, such as the ATS providers. To then force additional cost cutting directly onto the ATS providers is a double whammy, and is likely to lead to undesirable outcomes. It is the NTUS view that after a regulation is applied onto an Airport Operator, the market should be allowed to function through unbridled commercially negotiated contracts.

The NTUS would consider that there is a considerable 'gap' in the analysis of interdependencies between the KPAs. As recognised by the PRB by their commissioning of a study on the issue, it is important that the approach towards interdependencies is balanced and that the proposals complement each other and are actually deliverable. The Draft Performance Plan provides no evidence as to how the interventions proposed by the CAA are balanced and the resultant impact on interdependencies are not determined. We also note with concern that the consultation workshop also provided no information on interdependencies both regarding NATS RBP (revised Business Plan) or the Draft Performance Plan.

It is interesting to note that the Draft Performance Plan only makes reference to the requirements of ANSPs to make assurances that safety is not affected, yet it is unclear in the UK's case how the additional interventions made by the CAA have been taken in to account, and indeed no evidence is provided to support that.

Given that in the UK's case, a balanced plan was published by NATS, what analysis has the CAA undertaken to correlate the proposed interventions with the requirement for a balanced and achievable plan?

The interdependency section continues with reference to the customer consultation, and cites the NATS RBP, but as the Draft Performance Plan requires substantial additional cost reductions, no evidence has been provided that the Draft Performance Plan can be delivered set against these. It is the NTUS' view that the plan is at severe risk of being undeliverable.



The NTUS has given broad support to the Single European Sky project, and also supports the principles behind The UK-Ireland FAB program. As the European Commission states, FABs are a major tool to reduce *airspace fragmentation* and are necessary to accommodate the steadily growing traffic and to minimise delays by *managing the traffic more dynamically*. They go on to say that FABs will become drivers for *performance* and change the landscape of ATM service provision as they will provide an invaluable tool for air navigation service providers in reaching new binding performance targets put in place as a consequence of the implementation of the EU Performance Scheme.

The NTUS recognise that many future changes will have a significant impact upon our members, and through Social Dialogue we aim to understand and engage on what these changes will mean for our members.

In 2013, the EU undertook pilot infringement proceedings on the UK-Ireland FAB, which resulted in an Implementation Plan which committed the UK and Ireland to the DSOT, Dynamic Sectorisation Operational Trial. The NATS Trade Unions had NO involvement, or were we consulted with, prior to the NATS elements of this plan being produced. (See section, Social Dialogue). We contend that the DSOT was a knee-jerk response to EC infraction proceedings and was not fully considered before implementation. If we had had involvement in this process from an early stage, we would have tried to influence NATS and the IAA to bring forward alternative proposals.

One of the DSOT project's Joint Goals was *"to implement full free route airspace across the UK/Ireland FAB using dynamic sectorisation capability, whereby sector responsibility can be changed on a tactical basis between ACCs to deliver the most effective ATM service."*

The NTUS contends that the two concepts have been ***fundamentally confused***, as the introduction of free route airspace is not dependent on, nor linked to dynamic sectorisation. Dynamic sectorisation does not necessarily lead to the introduction of the free route concept. Indeed in the SESAR programme, they are ascribed as separate issues.

The NTUS would also suggest that the trial is ***misleading***, as it is effectively a delegation of airspace for a limited period of time to another ANSP for service provision. There is nothing 'dynamic' involved. We also contend that, other than some minor learning points, there is very little gain, either for the customers, the ANSPs, or for the staff.

Phase 1 of the trial is set at 9 months, and we do not understand the logic behind this timeframe. Additionally, we believe that the significant cost of the trial is excessive and is in direct contradiction to the Performance Scheme aims of cost reduction. It was effectively dictated by the Commission, and the cost was not budgeted for. It does not deliver performance enhancements and cost reductions as promised. This is a prime example where contingency cost would be required.

Our members, mainly at Prestwick, have worked hard to alleviate any technical concerns around the implementation of the trial, and the working arrangements concerning training, airspace operation, and retention of competency qualifications, to ensure the trial's success. Despite this, we still do not consider the trial to be fit for purpose.

If given an input, we would have urged NATS to concentrate on a true test of dynamic sectorisation between PC and Swanwick, an acceleration of the iTEC programme, and work on free route airspace. Whilst this would not have guaranteed avoidance of Infraction Proceedings, we are satisfied that these measures would have delivered more to capacity and performance improvements than the current trial.

The NTUS contends that particularly in airspace as congested and complex as the UK we need to ensure we are acting in the best interests of the whole system, with programmes that are safe, orderly, and efficient, rather than enabling what may be seen as doing something for the sake of it.

The NTUS remains concerned about project creep without appropriate Strategic direction or the appropriate Social Dialogue interaction, with the Shannon High Level Sectors project referenced by the CAA being a prime example of something that develops into something else. Despite agreement that the Airspace/Air Traffic Services will return to NATS upon completion of the DSOT, we fear that this will lead potentially to an unexpected and unprecedented threat to our members' jobs in the longer term. Without the appropriate Social Dialogue interactions, this will have undesired consequences.

The NTUS believes that appropriate and timely Social Dialogue is crucial to the successful implementation of the Single European Sky and the harmonious operation of NATS on a day to day basis. We are proud of our ability to engage constructively with NATS and have a long history of recognising issues and working to resolve them. As progress on SES (and through that, the performance scheme) is continued, the challenges facing both NATS and its employees are continuing to grow. Effective social dialogue will be a pre requisite to ensure that whatever the solutions maybe they are delivered successfully, and that there must be a recognition that staff are key stakeholders, as without effective engagement and buy-in progress, will be hampered.

This was recognised by the Chair of the PRB in the foreword of ‘Union Wide Targets for the 2nd Reference Period of the Single European Sky Performance – May 2013’

Mr Peter Griffiths wrote –

*‘These changes will affect everyone involved in the industry and what we will also seek in this target process is considerable dialogue with the staff associations by stakeholders and Management teams.*

*The decisions that are made by us indicate the ambition of the EU process, the people who work in this industry represent a considerable part of this cost-base and so we expect to see that there will be appropriate engagement of staff bodies and associations. This will also be examined in the plan submissions to ensure that this has taken place.’*

Within NATS we have both formal and informal process for conducting industrial relations (i.e. social dialogue), including an agreement called ‘Working Together’. This agreement broadly sets out behaviours and processes for the sharing of information and consultation processes. It also sets out a measuring process by which the level of effecting engagement through working together is scored jointly by the use of Key Performance Indicators. This is used to track the effectiveness of the working together principles on a monthly basis. It is important to note that this does not require that agreement is always is reached, or to replace negotiation, but rather seeks to ensure that the level of information sharing and constructive dialogue is appropriate and present.

NATS has significantly changed the composition of its Executive over the last couple of years and this has had a marked impact on the level of Working Together. The level of engagement has dropped markedly and information is not shared in good time. The opportunity for the NTUS and its constituent trade groups to contribute and engage on a wide range of topics has also been noticeably absent.

Some examples are:

1. No prior knowledge of the NSL TANS business plan until it was published on the CAA website.
2. The initial NATS RP2 business plans presented as options with no opportunity to comment or input during the formulation of the plans.
3. No consultation in the compiling of the NATS revised BP following customer consultation.
4. No consultation or information provided on the NATS elements of the response to the EC FAB pilot letter, resulting in a significant breakdown of social dialogue, particularly surrounding the dynamic sectorisation operational trial. This resulted in an informal approach to the Department for Transport to remind NATS of expectations surrounding social dialogue.

It is our assessment that effective consultation and therefore social dialogue has been lacking though the UK element of the Draft Performance Plan process.

EC regulation 549/2004 article 10 states:

*1. The Member States, acting in accordance with their national legislation, shall establish consultation mechanisms for appropriate involvement of stakeholders, including professional staff representative bodies, in the implementation of the single European sky.*

We accept that the Department for Transport and the CAA have through their processes executed the relevant requirements for stakeholder consultation, but that NATS has some areas that require improvement as outlined above. We would argue that NATS, as the designated en-route ANSP under licence from the UK CAA, has a responsibility to discharge some of the requirement on behalf of the state in accordance with regulation 549/2004.

In order to enable the state to assure itself of NATS compliance with the above, and more importantly to ensure that appropriate social dialogue is taking place, in service of progress in implementing SES initiatives, the NTUS would like to make the following proposal for inclusion in the UK element of the UK - Ireland FAB draft performance plan for submission to the European Commission:

Regulation 390/2013 article 9(6) states:

*6. For their own performance monitoring and/or as part of the performance plan, Member State may decide to establish performance indicators and associated targets in addition to the key performance areas and key performance indicators referred to in this Article and set out in Section 2 of Annex I. These additional indicators and targets shall support the achievement of the Union-wide targets and the resulting targets at local level. They may for example integrate and describe the civil-military or meteorological dimension of the performance plan, and may be accompanied by appropriate incentive schemes.*

**The NTUS therefore proposes the introduction in the RP2 performance plan of a local performance indicator and associated target on the application and effectiveness of social dialogue.**

The NTUS and NATS have a mature and well-practiced assessment process through the working together KPI mechanisms. A local target, to be agreed upon by both the NTUS and NATS prior to plan submission, with CAA oversight, would be set on a level of 'green' KPI to be achieved on a NERL basis. For example a target could be '80% green, measured monthly, for each year of RP2.

## Appendices

- IDS report analysis
- Pension progress during CP2 and CP3

### Appendix 1; IDS Report Analysis

The IDS study seeks to examine the efficiency of NERL's employment costs against the market, however it has not been able to rely on appropriate market comparators. The report states that international data comparisons are 'useful' but 'of limited value.' IDS has been unable to establish first hand data from European ANSPs. It is important to note that in the absence of direct comparisons, any 'market' comparison of salaries cannot be relied upon authoritatively. We completely disagree with the following paragraph from p55 of the IDS Report: 'The reality is that, no matter how specialist a job or function, those who acquire the skills to perform the role are recruited initially in the general labour market and have scope for moving to different types of work with other employers. The remuneration levels for all jobs are, therefore, subject to the continual informal benchmark labour market tests of the employer's ability to attract candidates of the right calibre, to recruit them in sufficient numbers, and to retain trained and motivated staff in adequate numbers.'

This statement ignores the training period required to take staff 'from street to seat' and the level of skills acquired which the payment system must reflect and the particular attributes of the relevant specialist roles. Furthermore, there is no evidence on labour mobility which would allow us to examine whether pay rates are competitive or uncompetitive.

The methodology outlined on pp 56-57 is credible given the data gaps but seriously flawed in terms of its potential to be relied on as statistically reliable. Overall we have identified significant flaws in the IDS analysis:

- There is no broad conclusion drawn from the pay benchmarking exercise conducted in 2013 as there had been in 2009. In 2009 the CAA concluded that the lack of comparable jobs made benchmarking difficult while above – average settlements had not led to salaries being 'over paid'. No explanation is given in the Performance Plan as to why a different approach is taken to assessment of staff costs in 2013/14.
- There is a lack of pay comparators. The report identifies that:

*In the absence of a large sample of organisations carrying out similar operations and employing very similarly skilled staff, it is more difficult to establish a clear market rate for a job. Nevertheless, while a particular post may be unique, the job holder will still require a mix and level of skills for which equivalents exist in the wider labour market. '*

The report does not make clear which roles in the labour market IDS regards as 'equivalent' and it dismisses the view that it is not possible to compare its ATCOs even with other ATCOs in the UK, and that a European approach to comparators need to be taken. In our view IDS's inability to establish such data means that a fundamentally important comparative data source is entirely missing.

- Hay points ranges for job *families* tell us little about where the *roles* within the job families and is therefore not granular enough to provide an appropriate market comparator
- Producing even a rough hierarchy ought to be done on the basis of a complete set of job descriptions and this has not been provided
- There were no Hay points produced for the ATCO and ATSA roles since role profiles do not exist for Air Traffic Controllers
- IDS accepts that military Air Traffic Controllers do not provide a suitable direct comparison with ATCOs therefore starting the compilation of a hierarchy within NERL from this point is questionable.
- Use of power control engineering roles in the energy and transport sectors to provide a framework for sizing the ATCO roles is open to question given the differences in role and labour market;
- Mapping of some jobs across IDS job levels makes no sense – furthermore, taking an arithmetical mean of figures that are themselves averages is statistical nonsense;
- IDS job levels are produced on the basis of a framework of competencies attached to individual roles. It is impossible, given the timeframe for collecting and analysing the data in this report, to be confident that the jobs have been accurately mapped on this basis, still less then to use the scores generated to work out whether the market map should be lower or upper quartile based on whether it is low or high in the range of scores for the role. Using the lower and upper quartiles in this way is also a statistically meaningless way to use the data
- No credibility can be placed on data which compares the level of the job family because each family contains different roles and job weights so statistical comparisons with the market are meaningless and uninformative: average salaries in one job in a family could be 20% behind the market; another could have average salaries 20% above – but that complexity would be hidden by an approach which found that, overall, the family was paid 'about right', or not out of line with the market. Neither, of course, would tell us much about the range of individual salaries within each of the roles in a family, and their relationship to the market data

#### Appendix 1; IDS Report Analysis – continued

- We have no data on the number of companies and individual employees contained within each of the 34 roles for which matches were made to IDS's pay database. This is extremely important information in terms of judging the quality of the data. Were there to be few employees in the match, or only a small handful of companies, it would be hard to establish that this constituted a fair 'market' – likewise should a large number of employees come from only one company. Equally, we don't know from where those companies come: it is unlikely to be fair to include project managers in retail distribution as an appropriate comparator for project managers in air traffic control. We know that IDS has selected energy and transport as sectors for detailed analysis but no justification is provided and consequently we have no idea as to whether the market as defined in section 8.4 provides a fair set of comparators;
- Use of internet-based job sites for pay comparison (such as pilotjobsnetwork.com) must only be used with extreme caution and with full reference to the data having no statistical grounding or representativeness. IDS does acknowledge this but then goes on regardless to give equal weight to the data on pilot salaries obtained direct from airlines without stating what data airlines were asked for and how they compiled the data they supplied. IDS has also calculated data mid-points and then cited these as market medians but we do not consider that such calculated figures are 'market medians'.
- The methodology for comparing ATCO salaries to those of pilots is extremely weak – seemingly to consist of no more than comparing where ATCO average salaries match to the salary data which IDS has produced and then concluding, for example, that Senior ATCOs (Band 5) could be benchmarked to the top of the range for a captain. This is not a market comparison exercise, because it pays no regard to the weight of the jobs or their skills and responsibility levels which are essential components of weighing one against the other.
- The importance of international salary comparisons is not just a question of the extent to which there is an active international labour market in place. Information exchange is also a function of a market – it is, after all, a form of trade. Therefore the lack of an international labour market for ATCOs does not mean that there is no reason to establish salary comparisons on an international basis. It should be possible to move towards some comparisons of the salaries paid to ATCOs on a European basis since this is the best means of cross-checking the relative efficiencies of salary levels. It is difficult to escape the conclusion that IDS's scepticism on the value of such an exercise is rooted in its inability to obtain first-hand information from European ANSPs.



#### Appendix 1; IDS Report Analysis – continued

- Comparisons of hours are made – and acknowledged – as more difficult since non-operational duties are excluded. Were ATCOs in the UK to spend a higher amount of their working time on non- operational duties (which may be the case) the picture could change quite significantly. Among the five largest ANSPs in Europe, ATCOs’ working hours in Operations are in line with the average.
- For many day-working staff (principally ATCE/STAR and MSG) the typical working week will be at least 10% over conditioned hours without recompense to overtime or other additional remuneration. There is continuing workload pressure on NERL staff, particularly following the staffing reductions through successive VR rounds, which would suggest that the pressure on staff to deliver over and above contracted hours will continue for the foreseeable future.

Given our concerns about the quality of data and conclusions outlined in the IDS Report we would ask the CAA to disregard or at least heavily discount any reliance it places on the Report in reducing the allowance for Staff Costs. We firmly believe the amount of the reduction for Staff Costs should be revisited and we draw particular attention to the following *once again*:

- There have been no days lost to industrial action in NATS in the last 32 years. This represents three decades of industrial harmony at a current terms cost of £50m per day were UK airspace to be closed. Interfering with fundamental staff terms and conditions risks upsetting that relative equilibrium. There is a genuine risk of industrial disputes arising particularly given the significant headcount reduction both before and during RP2 and the ongoing cost efficiency measures which impact on staff (including non- staff costs).
- Office of Budgetary Responsibility (OBR) economic growth forecasts have been increased since the Autumn Statement in December 2013 and the OBR has forecast that average earnings are expected to grow faster than CPI inflation this year and keep pace with RPI inflation next year. This expected growth should be taken into account in the calculation of the allowance for staff pay increases (currently restricted to CPI in the Performance Plan) as such a constraint would lead to staff pay falling behind the private sector.

## Appendix 2; Pensions progress during CP2 and CP3

NATS staff have already experienced multiple detrimental changes to the Defined Benefit Pension Scheme and would not welcome further reductions in the contractual terms of their pension. In 2009 the scheme was closed to new entrants and a cap of RPI + 0.5% on increases to pensionable pay was introduced along with a tax efficient Smart Pension Scheme. These measures were introduced in order to control future pension costs as there was a significant deficit in the funding of the scheme. A deficit recovery plan was put in place by NATS and the Scheme Directors in order to reduce and eventually pay off this deficit. These measures were unpopular at the time to the extent that there was significant unrest amongst the membership. Working Together between NATS and the NTUS reached agreement across a majority of the membership to accept the proposed measures – this was not without its difficulties.

In 2012 it became apparent that the changes made in 2009 were not sufficient, given the prevailing economic climate, to repair the deficit- indeed it was on course to become manifestly worse. After protracted negotiations, further changes to the scheme were agreed between the NTUS and NATS. The cap on pensionable pay was reduced to CPI + 0.25% and the index used for calculating increases in benefits was reduced from RPI to CPI after recommendations to the Scheme Directors from both sides. The reaction to these changes was hostile among staff both at briefings and in communications conducted on both NATS and Trade Union websites. Eventually the changes were accepted in a ballot, however this was in response to a significant deficit in the fund.

Our members have made clear that to revisit the terms and conditions of NATS staff pensions after the deficit has begun to reduce would undoubtedly be met with a very hostile response and risk industrial action up to and including withdrawal of labour.

We believe that we, and NATS, have done all that is possible within the rules of the scheme as set up by legislation for the PPP, and our members have supported, albeit reluctantly, action to mitigate the costs and risks. It is therefore reasonable for Staff and NATS to expect 100% cost pass-through, and for our contractual scheme to be protected against further detriment. The NTUS especially welcomes that the GAD (Government Actuaries Department) have said that the scheme is being run efficiently.

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**This consultation response was produced by the NATS Trade Union Side  
on behalf of Prospect and PCS Unions**

**4<sup>th</sup> April 2014**

