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Response to the CAA's Approach on the Timing and Process for H8

On behalf of by the London (Heathrow) Airline Consultative Committee ("LACC") and Heathrow Airline Operators Committee ("AOC"), collectively referred as (the "Airline Community"), thank you for the opportunity to respond to the CAA's letter, dated 3rd September 2024, setting out further detail on the timing and process for Constructive Engagement ("CE") for the H8 price control period.

In addition to the letter, the feedback within also takes note of the CAA's findings from the H7 'lessons learned' process (CAA CAP300)¹ as well as the letter from Rob Bishton to airline CEOs and the AOC². To that end, this submission is made jointly and sets out agreed principles and outcomes; please note individual airlines, groups and alliances may make their own submissions detailing their specific views on the CAA's proposals.

Introduction

The Airline Community are encouraged to see the CAA prioritising measures to improve H8, both in terms of the process and the 'building blocks'. We thank the CAA for the work, openness, and engagement to date.

As we trust the CAA have found to date, we always seek to approach price controls in a productive way in order to support and ensure the outcomes reflect the best interest of consumers and H8 will be no different.

Whilst we note that the timetable is ambitious, with CE starting in less than a month's time and the CAA's letter and CAP3000 identifying a number of risks, we reiterate our verbal commitment to the CAA on our readiness to being the process³ in order to meet the CAA's ambition of delivering H8 by the intended start date of January 2027. To that end, we would also highlight to the CAA we have also already begun discussions with HAL as we look to start addressing the actions raised within the letter.

Furthermore, the Airline Community welcome and support the findings of the CAA's findings in CAA CAP3000 on the building blocks, and its intention to deal with them for H8. We would encourage the CAA to deliver on these findings within the H8 process, particularly in relation to:

¹ CAP3000 Setting Future Price Controls – Lessons Learnt from the Review of Approach, published August 2024

² "Setting Future Price Controls – Lessons Learnt from the Review of Approach", dated 22nd August 2024

³ CAA / Airline Community meeting re H8 Timetable and Engagement, 21st August 2024



- Reducing the size and growth of the RAB by moving from RPI to CPI indexation and addressing concerns over HAL's potentially underperforming assets. Improving the approach to the RAB will be fundamental to the success of H8;
- Widening the evidence base by using bottom-up cost analysis;
- Commissioning an external independent traffic forecast;
- Strengthening the incentives on HAL to be resilient, both from a financial and operational perspective, as well as reviewing the calibration of certain new aspects of the framework, particularly around Traffic Risk Sharing;
- Continuing to support the transition to net zero; and
- Building on the activities and developments through the current work being (or due to be) undertaken on OBR Mid-Term Review, the Independent Review of HAL's Processes and Standards, as well as Other Regulated Charges.

Notwithstanding the above, we do have some concerns with the expedited timetable and definition of aspects of the process.

As such, we have also set out some proposed safeguards that we believe the CAA ought to put in place to mitigate the risks and ensure the H8 process both avoids the failings and behaviours shown during the H7 CE; and allows for appropriate engagement and due diligence to happen during this critical process. These safeguards concern the role of the CAA; minimum information standards during CE; and contingency planning, the details of which are set out further below.

Absent of the proposed safeguards, this expedited process would run a significant risk of being inconclusive, timed out and / or leading to a fracturing of relations. We therefore strongly urge and welcome the CAA's full considerations on the points raised within and remain available to discuss any or all aspects further.

Proposed Safeguards

1. Clarifying the role of the CAA

While we recognise that CE is primarily an engagement process between airlines and HAL, we underscore the critical role that the CAA should play in setting out clear expectations of all parties and holding them to account. We are encouraged to see the CAA clarifying its intention to be more actively involved in CE, such as attending the sessions through relevant subject matter experts and encouraging the appointment of Chairs and reporters.

We do however remain concerned that the draft guidance does not address three fundamental aspects of the CAA's role in CE, both of which are critical in maintaining a deliverable timetable. In particular, we believe that ahead of each Round the CAA ought to:

- (i) Set concrete expectations on the provision of high-quality information, not just in relation to the Business Plan (in Round 3), but also in Rounds 1 and 2 which will form the cornerstone of CE. In line with our previous submissions, the guidance should set out: the minimum information expected of HAL at each stage; the deadlines for doing so; and the consequences of non-compliance. We elaborate on this in the subsequent section 2; and

- (ii) Set out how it will guarantee information sharing. Obtaining the necessary information in time will be essential in the success of CE. The guidance within the letter seeks to address the design of the process but is less clear, at this stage, on how the CAA might manage it. Alongside (i) above, it is pivotal that the CAA clarifies how it will ensure that the prescribed information is shared fully and in a timely manner in each round. This would include the conditions which would trigger the CAA's intervention and the process to be followed; and
- (iii) In order to support the understanding of the entire process, including opportunities and overlap with the CE Rounds, identify the parallel activities the CAA is undertaking that will input and support the Initial and Final Proposals within the timeframe. This should include outlining required inputs from parties, where necessary, and timings on the key activities the CAA has identified through the "Lessons Learned" process it will be undertaking, such as commissioning an independent traffic forecast.

We also note that the priority / focus of both HAL and the Airline Community will likely shift towards focused engagement with the CAA on its Initial Proposals. We ask the CAA to consider the development of the relevant engagement model and timings. In particular, the extent to which this will run parallel and / or be incorporated with Round 4, and therefore whether the CAA would have to assume a more involved role in that Round.

2. Minimum Information during CE

We note the CAA's approach of setting out the areas covered in each Round of CE. Consistent with the draft guidance, airlines will attempt in the next few weeks to agree with HAL on the working documents, including material to be shared.

It is crucial however, not least given the timetable, that the CAA specifies the minimum information expected at each Round to ensure sufficient granularity is provided, and scrutiny allowed. This should incentivise both appropriate high-quality information and avoid protracted discussions on the specific scope of each Round.

While the CAA expects to set out its information requirements for Round 3 in the CAA's Business Plan Guidance (expected in October), we stress the importance of also providing clarity in the earlier rounds. In particular:

- **Round 1:** This will form the basis of CE as it will underpin the strategic focus and in-depth discussions in subsequent Rounds. Given the importance to the price control of the areas listed by the draft Guidance, such as initial investment priorities, traffic forecast and service quality, we support setting out clear expectations, topics and questions so as to ensure early engagement and allow time for discussion.

In addition to the topics covered by the CAA, we strongly encourage that the following issues are added to the scope of Round 1:

- (i) Carryover issues on which H7 CE "timed out", notably HAL's potentially underperforming assets; investment properties; and leadership and logistics;
- (ii) Strategy on service level performance to strengthen operational resilience, including in relation to baggage systems;

- (iii) Strategic orientations on commercial revenues – for instance the high-level commercial revenue per passenger being sought by HAL in H8 – and operating costs;
 - (iv) Identifying the “*proposed policy approaches*” the CAA have proposed HAL set out ~ we note the CAA have specifically asked this of HAL but believe this should include views of airlines and the CAA. By identifying within Round 1, this will allow greater engagement and development within Round 2; and
 - (v) Clarifying the interplay between HAL and airlines seeking consensus on the “*approach*” to traffic forecasts and the CAA’s proposal in CAP3000 to undertake an independent forecast ~ we note the historic challenges in previous CEs for airlines and HAL consensus around forecasting, including access to models. We therefore understand incorporating in this Round is intended more in relation sharing directionally where we envisage traffic to be within H8 and why. We note the importance of the CAA undertaking its own independent model which will be used in setting the Initial and Final Proposals, and we remain available to engage with the CAA on this in parallel / as part of this Round.
- **Round 2:** As the engagement on the building blocks is typically technical in nature, we ask for minimum granularity of information to allow for sufficient scrutiny by users. We would support the CAA in issuing targeted information templates on key cost areas, an example of which as provided in Appendix 1. These template(s) could notably include key cost and revenue drivers, such as facilities, management, security and control posts, and support greater engagement.

Furthermore, early availability of both the templates and information itself should allow the CAA to start carrying out, in parallel, a targeted bottom-up analysis to widen its evidence base, as recommended in CAP3000.

Similarly, we would be supportive of early CAA consultant involvement at this stage.

- **Round 3:** As covered earlier, we strongly support the CAA in issuing strengthened Business Plan Guidance to HAL to ensure both a high-quality business plan information along with the minimum information requirements, deadlines and penalties. We note that in order to be effective, this needs to be completed in advance of this Round.

We would also note that, as only one Business Plan is proposed within the timetable, ensuring high quality information in the earlier rounds is pivotal. Any further iterations or updates to the Business Plan after this Round should only be allowed with the airlines’ agreement and / or exceptional circumstances outside of HAL’s control, such as a change in legislation.

- **Round 4:** We would encourage the CAA to set itself a clear target deadline for publication of its Initial Proposals to allow for sufficient preparation ahead of this Round given engagement currently appears limited to January and February 2026. We would also ask the CAA to consider how it may ‘trail’ any emerging developments in advance of publication, such as in relation to any changes in policy(ies), governance arrangements, or incentives, in order to help support the ongoing engagement. We also refer to our comment above on the CAA considering a more active involvement in this Round.



In support of the above, we would suggest the CAA's consideration of specific 'entry' and 'exit' criteria or inputs / outputs related to each Round. Not only would these 'gateways' support the clear definition and expectation of each Round, but also facilitate monitoring progress against the timetable and intended process.

3. Contingency Planning

Despite CAP3000 identifying some important dependencies to the intended timetable for H8, such as the CAA increasing its resources and streamlining its internal governance, we are concerned to see no provision in the draft guidance in case of delays.

We strongly recommend to the CAA to include appropriate contingency to account for that risk, and to set out milestones along the CE timetable during which it will decide whether a delay to the price control will have to be triggered. These triggers could be linked to the relevant Round 'gateways' mentioned above and / or include events such as a delay in resourcing up the CAA team beyond the end of the year, lack or failure of information sharing, as well as input from previous rounds not being addressed. We would be open to working on a tripartite basis (CAA, airlines and HAL) to develop relevant triggers and discuss the form of a possible transition period between H7 and H8.

In addition, we reiterate our comments above on the challenges to the overall timetable. We maintain our position that all parties should, throughout the process, be taking the necessary steps to ensure that appropriate time is allowed to complete the relevant stages of the process as intended, rather than risking being 'timed out' as in H7.

Governance and Outputs

In addition to the above comments and safeguards, we would also note the following for the CAA's consideration.

Consultant Support:

We welcome the CAA's recognition that expert, consultant support is required by the airline community, particularly in technical / specialist areas in which airlines would not typically have inhouse, for example on Cost of Capital. In order to ensure their timely engagement, we would welcome from the CAA: (i) further insight on areas on the role and timing of consultant support for the CAA's own assessments; and (ii) support of the funds being raised and recovered through HAL (as per previous CE precedence).

Objectives:

During our engagement on the H7 Lessons Learned, the Airline Community highlighted the importance of the CAA setting clear Objectives for CE. The CAA commented in CAP3000 that it would consider how setting these out may be useful but was keeping under consideration. It is unclear if / how the CAA consider these might be incorporated given the Business Plan guidance is expected to be published in October and any Objectives developed later in the process may be limiting in its effect. We welcome further clarity on this point.

Co-Chairing Working Groups and Independent Reporting:

We will work with HAL in further defining the terms of appointments but suggest, particularly given the imminent start of Round 1, that in parallel the CAA consider how it might facilitate / appoint the role(s) in a timely manner, if deemed the most appropriate course of action.



We are available to discuss this response further, as required, and commit to being ready to work with both the CAA and HAL to establish a CE framework that will deliver an improved process for the H8 price control.

Appendix 1: IBP Template Example

****REMOVED****