

CAA Response to the Airports Commission Delivery Discussion Paper

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Introduction

1. The CAA welcomes the Airports Commission's discussion paper on Delivery of New Runway Capacity (the Delivery Paper), and its focus on how new capacity can be introduced as swiftly as possible, if the government agrees to take forward the Commission's conclusions.
2. The CAA agrees with the Airports Commission's interim conclusion that there is a clear case for one additional runway to be developed in the South East of England before 2030. Without building another runway in the South East of England, consumers will suffer from higher prices, reduced choice and lower service quality.
3. However, building a new runway to benefit consumers cannot be achieved at the expense of the overflown. Aviation must manage its impact on the environment and on those living close to airports if it is to expand.
4. The CAA believes it is important to ensure that all parties are as prepared as possible to deliver any proposed additional capacity following a final report from the Airports Commission and a decision by the government of the day. As such, the CAA welcomes the opportunity to contribute to the Commission's thinking on these important matters.
5. As the UK's specialist aviation regulator, the CAA has significant relevant expertise in areas that are central to the Airports Commission's work. In relation to the Delivery Paper, this includes economically regulating those airport operators it judges to have significant market power (currently Heathrow and Gatwick airports); serving as the Airspace Approval and Regulatory Authority for the UK (including owning the Airspace Change Process); acting as the safety regulator for UK aviation; and housing considerable aviation noise expertise within its Environmental Research and Consultancy Department.
6. In addition, the CAA collects a broad range of statistics and survey data, and has drawn on these resources to provide analysis to the Airports Commission.
7. The CAA's previous contributions to the Airports Commission and other work on aviation capacity policy can be found at this page: [Aviation Policy: Contributing to the work of the Airports Commission](http://www.kaa.co.uk/default.aspx?catid=589&pagetype=90&pageid=14751).¹

¹ <http://www.kaa.co.uk/default.aspx?catid=589&pagetype=90&pageid=14751>

CHAPTER 1**Response to Chapter Two - Legal and Planning**

- 1.1 The CAA agrees that the Airports Commission is right in producing as much material as possible to support government and will work with the Commission where it can assist in achieving this objective.
- 1.2 Scheme providers ought to be ready to move swiftly following a government response to the Airports Commission's final report. With this in mind, the CAA's economic regulation will ensure that consumers are not exposed to inappropriate risk from inefficient spending.
- 1.3 The CAA is not an expert on the planning system and will not comment at length on this area: decisions about the best approach, and whether not at this stage a single approach can be proposed that is effective for all shortlisted schemes, are for the Commission to decide upon.
- 1.4 The significant levels of private sector funding, ownership and operation within the airport sector, combined with high levels of public oversight and decision making, result in significant challenges in delivering additional capacity. This creates risks for consumers as well as investors - in the CAA's economic regulation we aim to minimise inappropriate risks for consumers, but the Commission should also be mindful of how delivery risks fall on different groups.

CHAPTER 2

Response to Chapter Three: Local Communities

- 2.1 The Airports Commission is right to focus on the importance of acknowledging the concerns of local communities and engaging with those who are likely to be most affected by expanded airport capacity. Community engagement is central to delivering additional runway capacity. Experience overseas indicates that a sustained, transparent and genuine attempt to ensure communities have a say in decision making and experience the positive side of additional capacity enhances the potential for success when creating additional airport infrastructure.
- 2.2 While undoubtedly some local communities see some benefits from nearby airports, and some may feel these outweigh the negative impacts, other local people feel the disbenefits of noise and air pollution outweigh the positives. The CAA believes that more can (and must) be done to share the benefits of aviation between consumers, the industry and the communities that suffer detriment caused by aviation if additional runway capacity is to be successfully created.
- 2.3 The CAA explored many of these issues in its recent publication, [Managing Aviation Noise](#).²

Overseas airports

- 2.4 The CAA recently met with airport operators, policy makers and local community groups at Frankfurt and Amsterdam to discuss their experiences of airport expansion in light of the development of a fourth runway at Frankfurt Airport and a fifth at Amsterdam Schiphol. At both airports, the central importance of engaging local communities early, fully and transparently in the decision making process, offering those communities a say in the process of deciding how new capacity will be developed and operated, and ensuring that any agreements reached had the trust of all parties was made clear.
- 2.5 At both airports, new fora were developed to help bring key parties from government, the aviation industry, local representatives and community groups together - respectively the Regional Dialogue Forum in Frankfurt and the Alders Tafel in Amsterdam.
- 2.6 The following principals for community engagement can be developed, drawn from the experiences in Frankfurt and Amsterdam:
- There must be clear, fair and transparent sharing of benefits between parties.
 - Mutually trusted, neutral mediation is vital.

2 http://www.caa.co.uk/docs/33/CAP_1165_Managing_Aviation_Noise_2.pdf

- Parity of information between all participants levels the playing field.
- The process must be non-party political.
- To be successful, the process is likely to require sustained pressure on industry from government (at all levels) and regulators.
- Once agreed, the deal must be locked in place so that all parties have certainty.

Airport Community Engagement Forum

- 2.7 Developing our understanding of effective community engagement at other airports has led the CAA to propose that at the site recommended for a new runway by the Airports Commission, a new Airport Community Engagement Forum may be an appropriate vehicle to help drive better engagement between industry, policy makers and communities.
- 2.8 Such a forum, charged with ensuring clear, effective links and dialogue between local communities, the aviation industry, policy-makers and planners would help to facilitate community engagement and could help to ensure the Airports Commission's recommendations are delivered.
- 2.9 For a new forum to be effective, it must have respected, independent and objective governance arrangements to give weight to its recommendations around noise management strategies, community engagement and compensation measures. The Forum's core aim should be focussing on how new capacity is developed and utilised, rather than whether such capacity should be created – a decision which is for government, based on the recommendation of the Airports Commission.
- 2.10 The forum should be tasked with recommending noise management strategies, community engagement and compensation measures, and overseeing their delivery, and would undertake the majority of its work during the period where a proposer is developing its application to build, following the Commission's final report and a government decision.
- 2.11 It is vital that this forum has the trust of all stakeholders, has real oversight powers and is an authoritative voice for it to achieve its aim: securing community trust in the process of expanding capacity.

Noise envelopes

- 2.12 Certainty around future strategic direction of local airports is important for communities - and is also key for investors and consumers. The decisions made by planning authorities and government should be mutually binding, and the CAA considers that underpinning them with a noise envelope and planning

restrictions could provide greater certainty to all parties that agreements, once reached, cannot be unpicked.

- 2.13 Simple restrictions on airport operations (for instance movement caps, or operational bans at certain times of day) may be too inflexible to be useful and don't incentivise industry to innovate to reduce noise further - but within a noise envelope, any additional benefits driven by industry performance beyond agreed limits ought to be shared between aviation and the overflow.
- 2.14 In 2013, the CAA published [a policy paper on Noise Envelopes](#)³ setting out best practice principles to adopt when creating an envelope. These principles are:
- stakeholders at the chosen site must input to and agree the envelope's criteria, limits and means of implementation and enforcement in the context of wider expansion plans and incentives for communities.
 - the benefits of future technological improvements must be shared fairly between the airport and its operators, and local communities.
 - the life-span of the envelope must be agreed, and its parameters set to maintain appropriate sharing of the benefits over its intended life-span.
 - government should implement legislation to secure the envelope's status in law, ideally alongside the National Policy Statement on aviation. This legislation could also cover resilience-related capacity considerations to avoid over-scheduling to the detriment of consumers even if noise limits are not breached.
- 2.15 The CAA also believes that greater consideration of respite issues is important - from a technical, health and future potential perspective. This is a complex area which many communities value strongly.

Compensation and mitigation

- 2.16 The CAA considers that for aviation to expand, it will be vital for the industry to do more to compensate those who live closest to airports for the disbenefits they experience, and to pay greater sums towards mitigating the effects of noise on local people.
- 2.17 Increasing spending significantly above today's levels would achieve greater equity between airports and communities, and the CAA believes that it is likely to be a pre-requisite for the significant expansion of any airport.
- 2.18 In doing this though, airport spending must be well targeted, proportionate and efficient to ensure airline consumers are protected from undue price rises.

³ https://www.caa.co.uk/docs/33/CAP_1129_Noise_Envelopes.pdf

Community benefits

- 2.19 Increasing the scale and visibility of benefits to communities from capacity expansion will also help to secure local people's buy in to development, and may help to defuse some of the politics that invariably surrounds attempts to develop new capacity.
- 2.20 The industry itself, its shareholders, the business community, leisure travellers, the government and the UK economy all benefit from the aviation industry. At present, the local communities who are impacted by aviation noise and emissions are the significant losers, albeit that they may also gain a share of the benefits through local economic activity and access to the airport. This is both inequitable and a limit to the industry expanding, to the benefit of the other groups mentioned. As such, the CAA believes that industry and government must do more to ensure that local communities benefit from expanding aviation capacity if it is to be successfully delivered.
- 2.21 Direct financial incentives for local communities could be an important part of compensating people for the negative impacts of aviation. The Airports Commission may propose such incentives in its final report – these are likely to be most impactful if local communities have a say in their design and if they are underwritten by law to ensure that residents can rely on them.
- 2.22 Additionally, funding of schemes that enhance life for local people can be effective to help achieve buy in, potentially more so than direct payments. This could include funding sustainable transport, small businesses or local enterprise grants, local sports teams, or community groups.

Land use planning

- 2.23 Looking to the future, it will be important to ensure that where new capacity is introduced, planning policy reflects an objective of minimising development within areas significantly affected by noise.
- 2.24 A holistic approach to planning and land management would see attempts to limit aviation noise at source combined with a strategy to reduce, over time, the people living in areas where mitigation will always be challenging.

CHAPTER 3**Response to Chapter Four: The Role of the State**

Economic regulation

- 3.1 In the period between 2003 and 2013, when economic regulation was present at Heathrow, Gatwick and Stansted, over £12bn was invested at the airports, allowing for significant infrastructure development for the benefit of passengers.
- 3.2 In January 2014, the CAA found that Heathrow Airport Limited and Gatwick Airport Limited had substantial market power (SMP) and therefore these airports were licensed for economic regulation by the CAA. It was determined that Stansted Airport Limited did not have SMP and was deregulated.
- 3.3 Building on the consideration set out during the decision-making process surrounding the Q6 period (2014 to 2019 for Heathrow and to 2021 for Gatwick), the CAA is currently considering its approach to economic regulation of new capacity in both Q6, and beyond. We expect to consult stakeholders on our view of key issues in the autumn.
- 3.4 On 09 June 2014, the CAA published a [discussion paper on the regulatory treatment of issues associated with airport capacity expansion](#).⁴ This paper explores many of the key issues that the CAA will need to consider if it is required to economically regulate an airport operator that is taking forward new runway capacity.
- 3.5 Issues covered by the CAA in its discussion paper include: the impact of expansion on market power; the allocation of risk; the funding profile for a new runway; the most effective regulatory model to adopt for such a substantial investment programme; and airline / airport constructive engagement.
- 3.6 In that discussion paper, the CAA indicated that the actual or perceived risk of capacity expansion would influence the market's appetite for the project and the cost at which a project may be financed. It also outlined that there are a number of different types of risk, which are unlikely to remain constant over time. As a general rule, the CAA considered that allocating risk to the party best placed to manage it was appropriate. It also noted that when attributing risk, it may be appropriate to ensure there is scope for a commensurate reward.
- 3.7 The airports regulatory system has, in the past, pre-funded capex, with capital expenditure being added to the regulated asset base (RAB) even if the asset is not yet in service. However, there are other approaches that could be used. For example, the CAA could adopt an 'assets in operation' approach, which would

4 http://www.caa.co.uk/docs/78/CAP1195_capacity_expansion_discussion_paper.pdf

mean that expenditure would only be added to the RAB when in operation. This is much more of a user pays approach. Alternatively, the CAA could look to adjust the time profile of the airport operator's revenue – this could allow some of the costs to be more evenly spread across time periods.

- 3.8 It is important to note in this context that in its decision around the regulation of Gatwick, the CAA adopted a more market-based approach rather than a traditional RAB-based regulatory system, with Gatwick and its airline customers agreeing price commitments, underpinned with a licence from the CAA.
- 3.9 The CAA considers that the regulatory approach that is ultimately developed should be proportionate and that regulation should only be applied where there is no scope for competitive, commercial outcomes to be reached.
- 3.10 The CAA does not believe that changes to its legislative duties are necessary or appropriate to facilitate new capacity development - the Civil Aviation Act 2012 provides it with a modern and flexible regulatory tool kit which places the consumer at the heart of the regulator's decision making. The CAA is, however, bound by its duties which do not include a specific duty to facilitate any new capacity expansion, but rather with a duty to promote the interests of users.
- 3.11 The CAA looks forward to continuing to engage with the Airports Commission, government and other stakeholders with the objective of ensuring that consumers are protected and their needs championed during the capacity development process.

Safety and security regulation

- 3.12 The CAA is committed to working together with industry and policymakers nationally and internationally to strengthen further the UK's excellent safety record.
- 3.13 In para 4.22 of its consultation document, the Airports Commission refers to NATS as the UK's airspace authority. While NATS is a provider of air traffic control services, the CAA is the Airspace Approval and Regulatory Authority for the UK, and is designated as the National Supervisory Authority (NSA) by the DfT for the purposes of Single European Sky legislation. The CAA, as specialist regulator:
- owns, and is fully responsible for, the Airspace Change Process (ACP) as set out in CAP724 and CAP725;
 - provides assistance on the application of the ACP and guidance on fulfilling the operational, environmental and consultation requirements;
 - scrutinises and assesses formal Airspace Change Proposals from sponsors (whether NATS, an airport operator or another party); and
 - ultimately approves or rejects a formal proposal.

- 3.14 The Airports Commission should note that, historically, the formal airspace change process has been initiated by airport operators (or the en route air traffic service providers such as NATS), following the granting of planning permission for a development. The airspace changes required for the short-listed options could be significant and lengthy to realise - as such the Commission may wish to consider potential options that would mitigate the risk of complex airspace changes delaying introduction of new capacity.
- 3.15 Alongside its role as The Civil Aviation Authority is also the UK's safety regulator for air traffic services and airport operations, working with the industry to improve safety outcomes in a targeted, proportionate and transparent manner.

Administration

- 3.16 The CAA notes the comparison between an Inner Thames Estuary Airport and previous major public projects such as HS2, Crossrail and the Olympics. However, it is important to note that any of the shortlisted schemes are likely to be large scale, complex projects with multiple interfaces between public and private sector organisations, which should be taken into account when considering the best way to deliver additional capacity as swiftly as possible.