



Competition and Markets Authority
The Cabot
25 Cabot Square
London
E14 4QZ
United Kingdom

FAO: Kirstin Baker (Panel Inquiry Chair)
Susan Hankey (Panel member)
Paul Muysert (Panel member)
Lesley Moore (Project Director)

[RP3 reference CAA document 001]

19 November 2019

NATS (EN ROUTE) PLC
NOTICE OF REFERENCE: DETERMINATION OF PRICE CONTROLS FOR THE PERIOD
1 JANUARY 2020 TO 31 DECEMBER 2024

1. NATS (En Route) plc, known as NERL, is the monopoly provider of en route and certain approach air traffic services in the UK. NERL is subject to economic regulation of its en route services under the European Union Single European Sky performance scheme, the Transport Act 2000 and through the application of its licence conditions.
2. On 29 August 2019, the Civil Aviation Authority (CAA) published proposed modifications to NERL's air traffic services licence in CAP 1830. The proposed modifications implement the CAA's decision on the economic regulation of NERL for the period, which begins on 1 January 2020 and runs until 31 December 2024. This period is known as Reference Period 3.
3. On 10 September 2019, NERL rejected the proposed modifications. This letter confirms that the CAA has decided to refer the disputed licence conditions to the Competition and Markets Authority under s.12 of the Transport Act 2000.
4. The Competition and Markets Authority is therefore required to investigate and report on whether or not a failure to set price controls and impose the appropriate modifications to the RP3 licence would operate against the public interest or may be expected to do so.
5. We consider that the proposed modifications are in the public interest, and in particular can be expected to improve outcomes for users of NERL's services, including passengers and airlines. They will allow NERL to continue to provide a high level of service and operational performance, while delivering the strategically important modernisation of UK airspace.

6. If the CMA concludes that a failure to set price controls and impose conditions to NERL's licence would operate against the public interest it must consider what modifications to said licence would remedy that adverse effect and whether the conditions the CAA has proposed are adequate.
7. The CMA is required to consider and publish its decisions within a 6 month period, beginning with the date of this letter, unless it requests and is granted more time to do so pursuant to s.12A(3).
8. Enclosed with this notice of reference, is 'CAP 1857: Reference to the Competition and Markets Authority of the NERL RP3 price controls',¹ which sets out the background to our decision to refer the price controls of NERL to the CMA.
9. Please address any questions regarding the content or detail of this notice, or CAP 1857, to Matt Claydon ([XXXX](#)) in the first instance.

Signed for and on behalf of the Civil Aviation Authority



Paul Smith
Director, Consumers and Markets Group

Copy: Ian Elston – Deputy Director Aviation Policy, DfT
Thea Hutchinson – Head of Regulation, NERL
Matt Claydon – Head, ATM Regulation, CAA

¹ [RP3 reference CAA document 002]