

Enforcing the development of airspace change proposals

Department for Transport – Civil Aviation Authority

RPC rating: fit for purpose

The impact assessment (IA) is now fit for purpose as a result of Department for Transport's response to the RPC's initial review notice. As first submitted, the IA was not fit for purpose.

Description of proposal

In the UK there are currently five classes of airspace, the classification of airspace within a Flight Information Region (FIR) determines the flight rules that apply and the minimum air traffic services which are to be provided. The UK's airspace requires modernisation in the coming years as it is struggling to keep pace with the growing demand for aviation. If the structure of the UK's airspace is not upgraded the Department expects a sharp increase in air delays, which in turn would create costs and disruption for passengers and businesses and lead to increased queuing in holding stacks, which cause unnecessary noise and emissions. The proposal aims to ensure that quality Airspace Change Proposals (ACPs) will be prepared and submitted in a coordinated and timely manner to deliver the benefits of national modernisation, where airspace change sponsors are unwilling or unable to take these ACPs forward voluntarily. While airports and air navigation service providers (ANSPs) are expected to engage with this modernisation programme, legislation is required to ensure that appropriate ACPs take place in a coordinated manner when organisations may be unwilling or unable to do so, which could otherwise delay modernisation.

As well as the do-nothing option, the Department presents its preferred option which is made up of both a non-regulatory and regulatory element. Non-regulatory option 1 allows the Department and the Civil Aviation Authority (CAA) to continue to provide leadership through co-sponsoring a new Airspace Modernisation Strategy, including through commissioning the development of a masterplan of changes. Option 2 is, alongside option 1, to introduce legislation that provides the Secretary of State (SoS) or a delegated authority (which would be the CAA) the power to direct airport operators/Air Navigation Service Providers (ANSPs) to:

- a. submit ACPs that have been identified as appropriate for improving the use of airspace in the UK, this would be to an agreed timescale;

- b. cooperate with another party (airport operator/ANSP/other body) to enable that party on behalf of the airport operator/ANSP, to prepare and submit ACPs identified as appropriate for improving the use of airspace in the UK. This would be on an agreed timescale.

The implementation of both option 2 powers alongside option 1 is preferred.

Impacts of proposal

Under option 1 the costs of developing and overseeing the masterplan and associated programme are provided.

NATS costs

The production of the initial draft masterplan by NATS is estimated to require a 0.25 FTE of staff time at full costs of £30,000 with further costs of £30,000 for external collation and editing. Ongoing requirements for updating the masterplan, engaging with the AMS through ACOG and extending to other areas are estimated at 2-3 FTE or £240,000 – £360,000 full costs per year.

CAA costs

In relation to the delivery, monitoring and oversight (DMO), the CAA estimate there to be transitional costs of £275,000, followed by an average annual cost of £1.16 million from 2020/21 – 2024/25. For wider ongoing support of relevant masterplan related tasks an additional 1.1 -1.6 FTEs are required, at a full cost of £150,000 - £220,000 per annum.

DfT costs

The DfT may incur minor additional staffing costs. The Department assume that ongoing additional activities might require 0.3 FTEs at HEO level and 0.1 FTEs at G7 level, at a total annual cost of £19,500.

The Department has been unable to monetise the potential savings to business (which may be partially offset by further costs involved in engaging with the new regime).

Option 2a would be to implement power (a) only, alongside Option 1. In addition to the costs incurred under option 1 there would be costs to the CAA when critically assessing whether a lack of progress, or failure to undertake an ACP, requires referral to the SoS for a decision on whether to direct them to do so. It is expected that an additional 0.5-0.7 FTEs will be required on an ongoing basis, at a cost of

£70,000 to £100,000 per annum. These costs incorporate additional workloads across the delivering, monitoring and oversight (DMO), the Safety and Airspace Regulation Group, the Consumers Market Group and legal support. Furthermore, DfT will face costs on top of those identified under Option 1 when considering whether to direct an airport/ANSP to undertake an ACP. While the procedures for doing so have not been developed, a parallel can be seen in the airspace change call-in process, in which the Department must decide whether to call-in a decision for the SoS on an ACP following a request to do so. This decision to call-in, assisted by an initial report prepared by the CAA, has an estimated cost of £5,200 per call-in request. The Department may choose to delegate the decision-making power to the CAA. In this scenario, the Department costs would fall on the CAA.

Airports and ANSPs will incur familiarisation costs, since these will be required to familiarise themselves with the legislation and disseminate the relevant information to colleagues. It is assumed that half a person-day (or four hours) is required for each airport/ANSP to undertake this task. At a median hourly pay the total cost for airport and ANSP familiarisation are £10,100. The costs of undertaking an ACP are dependent on the nature of the change, however the Department has estimated that the central estimated cost of undertaking additional ACPs is expected to be £4,100,000.

Under option 2b, the costs for NATS, CAA and DfT are deemed to be the same as those identified under Option 2a. For any ACPs that cannot directly be undertaken by the relevant airport/ANSP, it is possible that the Department (or the CAA if responsibility is delegated) would face additional costs in identifying an alternate airspace change sponsor, if that was the system followed. While alternate organisations could additionally be responsible for undertaking ACPs under option 2b, the Department would still expect nearly all, if not all, ACPs to be undertaken by the initial airport / ANSP as directed. The Department expects airport / ANSP familiarisation costs to be equivalent to those experienced under option 2a.

Quality of submission

The RPC welcomes the voluntary submission of this de minimis assessment measure. As this is a non-qualifying regulatory provision, the Department are not required to formally submit this to the RPC for scrutiny, however the RPC encourages submission.

Given the scale of the impacts the RPC considers the level of analysis proportionate. The RPC considers there to be sufficient evidence to justify the need for government

intervention and accepts the rationale, as the Department expects that there will be a high level of interdependence between different airports' demands over airspace. Therefore, ANSPs will need to develop ACPs in close collaboration with each other, otherwise there could be conflicting design options submitted to the CAA, which would be inefficient and cause delays. Furthermore, there is a need for the CAA to act on the Department's behalf to ensure a smooth operation of airspace. Consequently, there is a need for intervention to enable co-ordinated delivery of other airports' changes to lower airspace use as well as NERL's changes to upper airspace.

Small and Micro Business Assessment (SaMBA)

The Department provides a proportionate SaMBA and has assessed that there are around 16 small and micro businesses (SMBs) which will fall in the scope of these measures, and where they might be disproportionately affected. The Department has stated that it is unable to exempt SMBs because the main benefits of the policy would not be realised, as there has to be 100 per cent compliance for it to be most effective. The Department has also explained that the vast majority of costs will fall on large commercial airlines, and that the use of the en route unit rate as the funding mechanism will mitigate most of the impact on small and micro businesses. The UK Eurocontrol En Route unit rate is charged to users of airspace and there are exemptions for reducing the impact on SMBs. Those exempted include: flights by aircraft of which the Maximum Total Weight Authorised is 5700 kg or less made entirely in accordance with the Visual Flight Rules in the Rules of the Air Regulation 2015 (SI 2015/840); and, flights terminating at the aerodrome from which the aircraft has taken off. Therefore the RPC is content that the Department has given sufficient consideration to possible mitigations.

Issues addressed following the RPC's initial review

As initially submitted for RPC scrutiny, the EANDCB could not be validated as it was unclear what the relative probabilities of the low and high estimate were and so the central estimate used could not be verified. Following the RPC's Initial Review Notice the Department has:

- explained the reasoning behind the use of its central estimates in its calculations which helped to validate the EANDCB. The high scenario used of a total of 16 ACPs not undertaken in the baseline is not thought to be probable. Such a high number of cases is it not likely to occur under any

future scenario but it was initially adopted to ensure that the implications of the policy were understood in those extreme circumstances.

- improved its small and micro business assessment appropriately by discussing mitigations, and explaining why it would not be possible to exempt SMBs from scope of the regulation, as the full benefits of the regulation would not be realised. It has also assessed the number of small and micro businesses who are likely to fall under scope of the regulation.
- explained how it is going to monitor and evaluate the effectiveness of the regulation and measure progress against delivery plans.
- included a competition assessment which discusses the implications for competition on businesses as a consequence of the proposed powers being introduced.
- presented a diagram of the levels of airspace.
- presented the likelihood of the problems and risks discussed materialising and how many occurrences of these problems are likely to happen over the appraisal period.

Other comments

- The IA should present the likelihood of the problems and risks discussed in the IA materialising if there is no intervention. It should also present an estimate of how many of these problems are likely to arise over the appraisal period based on past experience.
- The Department could have presented the levels of airspace, areas, and the potential uses for each by explaining the diagrams further in the Annex. This would improve the IA by clearly setting out the possible interactions and risks, and would also underpin the rationale.

Departmental assessment

Classification	Non-qualifying regulatory provision
Equivalent annual net cost to business (EANCB)	£1.3 million (2014 prices)
Business net present value	-£14.11 million
Overall net present value	£14.29 million

RPC assessment

Classification	Non-qualifying regulatory provision
EANCB – RPC validated ¹	£1.3 million
Small and micro business assessment	Sufficient
RPC rating	Not fit for purpose (initial submission) Fit for purpose (final submission)

Regulatory Policy Committee

¹ For reporting purposes, the RPC validates EANCB and BIT score figures to the nearest £100,000.
