

Ms Judith Ross  
NATS/CAA Regulatory Appeal  
Competition & Markets Authority  
The Cabot  
25 Cabot Square  
London E14 4QZ

By email to: [nats.caa@cma.gov.uk](mailto:nats.caa@cma.gov.uk)

15<sup>th</sup> April 2020

Dear Ms Ross,

**Airlines UK response to the NATS (En Route) Plc /CAA Regulatory Appeal Provisional findings report.**

Airlines UK is the trade association for UK airlines. Our members are British Airways, CargoLogicAir, DHL, easyJet, Jet2.com, Jota Aviation, Norwegian Air UK, Ryanair, TUI Airways, Titan Airways, Virgin Atlantic, West Atlantic and 2Excel.

Airlines UK welcomes the opportunity to submit our views on the NATS (En Route) Plc /CAA Regulatory Appeal Provisional findings report.

In our original submission we emphasised our prevailing view that it is right that the CAA sought to ensure NERL delivers its operations as efficiently as possible and in the interests of service users, not least for airlines where operating costs are high and margins are low (to say nothing of the severe impact of the current COVID-19 outbreak, which has seen airline revenues collapse).

The CAA's role as the economic regulator of NERL - a monopoly provider of air traffic services - is an essential one. We welcome the overall set of provisional findings, subject to any adjustments for known material changes, which we note support many of the CAA positions supported by airline stakeholders. We note the CMA has upheld the CAA's final price control decision in respect of both operating costs and capital expenditure allowances.

Regarding cost of capital – the source of the largest differential between the CAA's determination and NERL's request – UK carriers were supportive of the CAA's RP3 cost of capital determination, judging that the cost of capital proposed by NERL was higher than what can be justified by the available evidence.

Although the CMA has now provisionally determined a slightly higher weighted average of cost of capital at 3.08% compared to the CAA's final decision of 2.68%, we recognise that the CAA's figure fell well within the overall range determined by the CMA – unlike NERL's high figure of 4.21% which fell well outside this range.

In this finding from the CMA, we do however observe that there has been some difference in weighting of comparators, for example between international airports and regulated networks which we would welcome more detail on around consistency.

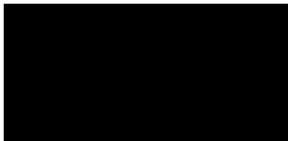
On operational expenditure, we believe that the efficiency challenge put to NERL is moderate and achievable, and that rather than a reduction in operational expenditure, the CAA has provided a 15% increase compared to 2017 baseline. We welcome the CMA's provisional conclusion that the licence should be modified to include the opex reductions proposed by the CAA (around 2% reduction).

There are also areas where we believe the CMA should look at some additional adjustments to protect consumers from paying for investments that are no longer required within the RP3 period, taking into account, for example, anticipated delays to Heathrow's third runway, that the TC Foresight programme will now not be undertaken within RP3 and, the timelines envisaged by the latest ACOG plans in the RP3 period.

Finally, we note the possibility that the EC might act with regards to the COVID-19 outbreak in terms of how traffic risk sharing mechanisms should work in response to an industry call for relief. We believe that airlines using UK airspace should not be put at a disadvantage to their European competitors because of a CMA decision to use a COVID-19 impacted traffic forecast. We echo sector calls to allow the CAA, NERL and airlines to work together to address COVID-19 over the coming months and identify the next (now delayed) RP3 Investment Plan Session as an opportune time to discuss this.

In summary, we believe that NERL will have the appropriate resource to undertake its essential functions, and deliver critical airspace modernisation.

Yours sincerely,

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Tim Alderslade  
Chief Executive