



Airlines for America®

We Connect the World

August 3, 2023

Via Email: economicregulation@caa.co.uk

RE: Economic regulation of NATS (En Route) plc: Provisional Decision for the next price control review

Dear Sir or Madam,

Airlines for America (A4A), on behalf of its members,¹ welcomes the opportunity to comment on the UK Civil Aviation Authority's (CAA) Provisional Decision for the next NATS (En Route) plc (NERL) price control review (NR23) set out in CAP2553 and associated annexes. Our members operate significant services to the UK and have a strong, vested interest in the subject matter and outcome of this consultation. We support the comments that IATA has submitted but wish to supplement them with brief observations of our own.

Overall Revenue and Unit Rate: A4A believes that the proposed 26% increase in the NERL unit rate relative to 2022 is excessive. This rate would be higher than the unit rates levied in other Eurocontrol members aside from countries whose traffic levels are significantly impacted by the war in Ukraine. To preserve the UK's competitiveness and to assist the airline industry in emerging from the worst financial crisis in its history, we respectfully request the CAA to revisit and lower the proposed increase in the unit rate. In short, these cost increases in the UK, and other jurisdictions, ultimately are passed along to the traveling public.

Traffic Forecasts: We support the CAA's continued use of Eurocontrol STATFOR traffic forecasts. These reports are independent, enjoy a proven track record and are used by the vast majority of regulators in Europe.

Service Quality Standards and Incentives: We broadly support the CAA's targets for Service Quality Standards and Incentives, including the 3Di metric for environmental performance which will help our members achieve their commitment to net-zero emissions by 2050.

New Users: We welcome the CAA's decision to implement a "user pays" principle for new users of UK airspace such as commercial drones. However, we oppose the

¹ A4A's members are Alaska Air Group, Inc.; American Airlines Group, Inc.; Atlas Air Worldwide Holdings, Inc.; Delta Air Lines, Inc.; FedEx Corp.; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.

proposal to delegate to NERL the responsibility for setting charges for new users. As the regulator, the CAA has the responsibility for establishing a charging mechanism for both new and existing users.

Traffic Risk Sharing (TRS): We support the CAA's proposals to:

- Spread the recovery of TRS revenues over a ten-year period, reducing the impact of COVID-19 on the unit rate in NR23 subject to two provisions. First, we do not believe that airlines should be responsible to recoup NERL's entire losses resulting from COVID-19. Rather, these losses should be equitably apportioned under the traffic risk sharing concept. Second, these costs have already been incurred, and therefore should not be subject to inflationary adjustments.
- Spread recovery of revenues over multiple years where there are unexpected traffic reductions that are triggered by changes exceeding 10%. This will help mitigate the impact of a significant decline in traffic on user charges.

En Route Determined Costs: A4A supports CAA's proposal to reduce NERL's enroute Determined Costs in NR23 from £3,238 million in NERL's business plan to £3,055 million.

Pension Costs: In general, we support the CAA's position on pension costs. However, two modifications to the Provisional Decision should be instituted. First, rather than selecting the midpoint of the comparator group when calculating DB scheme costs, NERL's strong financial position and the regulatory protections it enjoys justify selection of a lower point. Second, for the DC pension scheme, the CAA should follow the expert advice of the Government Actuary's Department and reduce the 12% funding requirement to 11%.

Ex ante Review: We note that the CAA will conduct an *ex post* review of NERL's capex during RP3 and NR23 and will remove from NERL's Regulatory Asset Base any expenditure that is found to be "demonstrably inefficient or wasteful." While we support this review, we believe that an *ex ante* review will drive more efficient outcomes by requiring NERL to set out costs and deliverables in advance. In the Heathrow charges context, the CAA is seeking to implement a process to ensure that Heathrow Airport Limited (HAL) provides a concrete set of Delivery Objectives (DOs) at the outset of the settlement period. Rather than retrospectively review the expenditure, airlines and HAL will agree the DOs based upon consumer needs and can easily determine at the end of the settlement period whether HAL delivered on these objectives. The CAA should implement an *ex ante* review approach in the current context subject to the Competition and Markets Authority's views in its final determination later this year.

Airspace Modernization: We support the UK's Airspace Modernization Strategy (AMS) and are encouraged that it is a key strategic driver for NERL in NR23. The AMS will reduce fuel burn and greenhouse gas emissions and make flying safer by reducing flight times. Because of the demonstrated benefits, we respectfully request the CAA and the UK government to make improvements to the infrastructure that are critical to achievement of the AMS.

Capex Engagement Incentive: We support this incentive but believe that it would attract greater participation if the scoring process were simplified.

London Approach and Oceanic Price Controls: We support the CAA's decision not to adopt NERL's recommendation to introduce TRS arrangements for the oceanic service because, as the CAA correctly states, "this would create additional complexity without generating significant benefits for consumers." We also strongly support the need for an independent cost/benefit review of the introduction of SB ADS-B data charges, as well as the development of quantitative and qualitative metrics to measure its benefits against plan, as outlined in the CMA review and CAP 2351.

Use of Most Recent Data and Stakeholder Consultation: The CAA should use the most recent data when making its Final Decision later this year. In this regard, we are encouraged that the CAA will incorporate into its Final Decision, *inter alia*, (1) the CMA's final determination on the H7 Heathrow Airport license modifications appeals; and (2) the independent Egis review of the changes to the DP En Route and legacy escape capex programs.

We support the CAA's commitment to consult stakeholders on any changes it makes to the regulatory framework after this consultation closes either in response to the advice contained in above-mentioned documents or to significant changes to the macroeconomic environment in the run-up to its Final Decision.

We thank you for your kind attention to these comments and look forward to continued engagement on this important consultation.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Glatz". The signature is fluid and cursive, with a large, stylized "G" at the end.

Keith Glatz
Senior Vice President, International Affairs