

easyJet response to CAA consultation on potential modifications to the NATS licence in respect of governance and ring fencing

Introduction

easyJet is the UK's largest airline. easyJet's passengers have a significant interest in the efficient and reliable operation of NATS' regulated arm, NERL. Our passengers, along with those of other airlines, fund the costs of NERL. They are also directly impacted if NERL suffers from any operational failures. Consequently, it is in the interest of passengers for the regulatory regime to ensure that NERL is effectively regulated.

easyJet is a shareholder in NATS through the Airline Group. However, our regulatory approach to NATS is based on the impact NATS has on our passengers and the operation of the airline. So this response reflects our views as a customer of NATS and as a representative of our passengers' interests.

The CAA's proposals

easyJet has always argued for a greater separation of NERL from the remainder of NATS' activities. This would:

- Involve a clear separation of NERL activities, including of people and resources, from the rest of NATS.
- Ensure the regulated activity remains fully ring-fenced and that appropriate resource and management focus is devoted to it.
- Increase the resilience of the NERL operation.
- Mitigate the risk that NATS loses focus on the operation of NERL.

easyJet will not comment on the proposals around independent directors, as given our shareholding in NATS we believe this would not be appropriate.

Financial ring fencing

We support the additions to the requirements around the NERL ring fence. This includes the requirement that NERL issue two certificates; stating that it has the appropriate level of financial and operational resources, instead of the current single certificate.

We also support the requirement that NERL directors provide a statement to the CAA setting out the process/information used to justify the certificates, and that directors certificate that NERL is not cross-subsidising other part of NATS nor at risk of cross default.

We agree that NERL should be required to restate its compliance statements before payment of any dividends, to ensure that NERL is maintaining its financial resilience.

We are comfortable with the removal of the requirement on NATS that any cross purchases of services within NATS should not negatively impact competition, as this is redundant given competition law.

Recovery from insolvency

We agree that NERL should be required to maintain an intervention plan for any special administrator. In the event of any financial failure of NERL, it will be vital that a special administrator can take over the operation of NERL without any negative impact on its operations. For this to happen the special administrator will need to be able to immediately take over the operation. The intervention plan will support this.

Summary

Taken together the CAA's proposals are an enhancement of the ring fence of NERL and should also increase its operational resilience. We recognise that the likelihood of NERL failing to the extent that the sustainability of its services is put at risk is low. However, the impact of such a failure would be huge, and it is the responsibility of the CAA to ensure that this risk is appropriately mitigated. The package of measures set out by the CAA is consistent with this responsibility and are proportionate to their benefit.

easyJet

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