

Strictly Private & Confidential

7 July 2021

UK Civil Aviation Authority
Aviation House
Beehive Ring Road, Crawley,
West Sussex, RH6 0YR
United Kingdom
Email: economicregulation@caa.co.uk

By email

Re: Consultation on the programmes and projects to be assessed under the Capex engagement incentive

Dear Sir/Madam,

I refer to the above issue and the CAA's invitation for views published on 10 June.

Ryanair welcomes the present consultation to review the approach to the Capex incentive of NATS (En Route) plc (NERL), subject to the following comments.

1. Delivery of Capex

The absence of reference to delivery of Capex or efficient use of resources within this incentive remains a concern.

We note that the Guidance Document suggests that the cap on the penalty should be determined on the basis of NERL's actual Capex rather than the level of its Capex allowance. A significant under-spending in Capex compared to planned for NERL would reduce their exposure to a penalty for poor engagement. This appears counterproductive should the under-spending be driven by failure to deliver projects as consulted and would prove detrimental for airline customers and NERL efficiency.

2. Penalty mechanism

We are concerned that the penalty is levied against NERL's return on equity which may create an incentive for NERL to artificially inflate their return on equity to account for the risk of a deduction.

3. Timeline

An initial assessment on 31 July 2021 is too early to make an accurate determination given that the period runs until 31 December 2022. We further suggest that 31 July 2022 is too early to conclusively issue a decision on NERL's engagement in a period that appears to run until the end of 2022.

We are conscious of the business planning requirements for NR23 and associated delivery dates and suggest that the assessment period ends on 31 July 2022 to enable inclusion in the NR23 planning process and avoid the need for costly replanning. We request further clarification on the incentive timeline proposed for the remainder of 2022 and throughout NR23 to ensure focus on NERL's Capex engagement does not end on 1 August 2022.

4. Metric and scoring

The most appropriate metric for measurement of engagement would be Option 2 with an adjustment to account for SAIP AD6 (c5%) due to its importance following the Palamon decision and Free Route Airspace (c10%) due to the delays that have been incurred in its deployment to date.

We request further clarification on the publication of NERL scores and how airline customers will be informed of same for the purposes of reviewing NR23 performance plans.

Being the largest airline in the UK by passengers' numbers, Ryanair is one of the main parties affected by this consultation. We therefore trust that our comments will be taken on board when the CAA makes its final determination.

Please do not hesitate to contact us if you want to discuss any point of our proposition.

We look forward to hearing from you.

Yours sincerely,



Eoin Kealy
Head of Competition and Regulatory

cc Paul Smith – Civil Aviation Authority (Paul.Smith@caa.co.uk)
cc Matt Claydon – Civil Aviation Authority (Matt.Claydon@caa.co.uk)