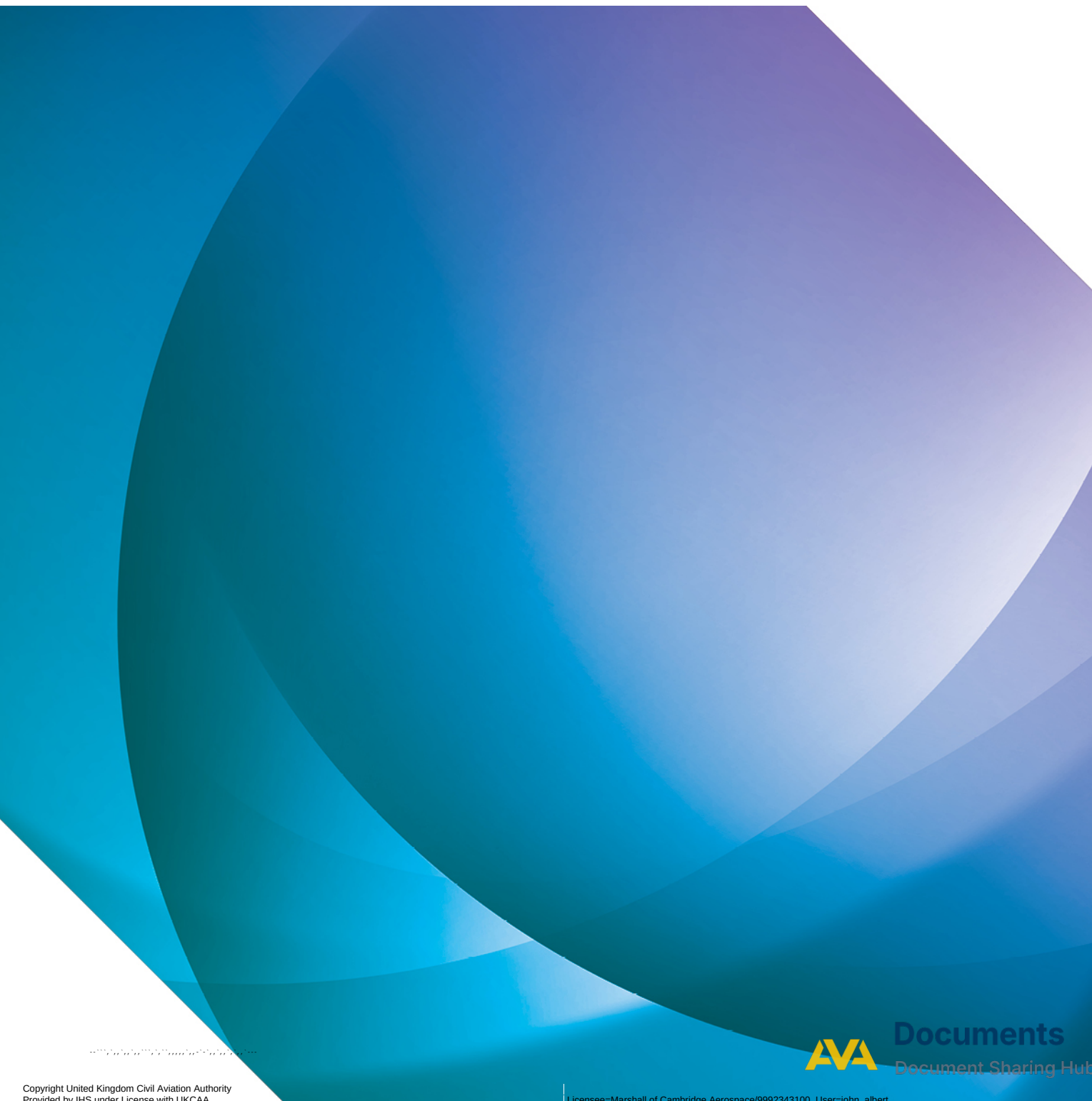


Proposal to modify NATS (En Route) plc licence in respect of the Oceanic price condition for 2015-2019: Notice under section 11(2) of the Transport Act 2000

CAP 1230



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November 2014

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Chapter 1

Introduction

Purpose of this document

- 1.1 This document sets out, for representations, the CAA's provisional decision for a charge control on Oceanic services for the five years 2015 to 2019 inclusive and the formal notice of changes to the Condition 22 of NERL's licence to take effect from 1 January 2015¹.

Views invited

- 1.2 The CAA published a consultation document in July 2014 setting out proposals for a charges control for Oceanic services for the period 2015 to 2019. The consultation closed on 25 September 2014. This document sets out the CAA's provisional decision and reasoning.
- 1.3 Under section 11(1) of the Transport Act 2000 the CAA may modify the conditions of a licence if its holder consents to the modifications.
- 1.4 NERL, as the licence holder, has given its consent to the modified condition in Appendix E.
- 1.5 Under section 11(2) of the Transport Act 2000, before making modifications to the licence the CAA must publish a notice setting out the proposed modifications, their effect and the reasons for the proposal, and must state the period (of not less than 28 days) within which representations may be made regarding the proposed modifications. Accordingly, this document constitutes such a notice and the CAA would welcome comments on the proposed modifications. Any comments should be sent, if possible, by e-mail to economicregulation@caa.co.uk by **12:00 on Monday 15 December 2014**. Alternatively, comments may be sent by post to:

Stephen Gifford
Markets and Consumers Group
Civil Aviation Authority
4th floor, CAA House
45-59 Kingsway
London WC2B 6TE

1 Air traffic Services Licence for NATS (En Route) PLC as consolidated September 2013.

- 1.6 The CAA would expect to make any responses available on its website for other interested parties to read as soon as practicable after the period for written comments has expired. Any material that is regarded as confidential should be clearly marked as such. Please note that the CAA has powers and duties with respect to information under section 102 of the Transport Act 2000 and the Freedom of Information Act 2000.
- 1.7 If you have any questions on this document please contact Mike Goodliffe on 020 7453 6226 (or, by e-mail, to mike.goodliffe@caa.co.uk).

Next steps

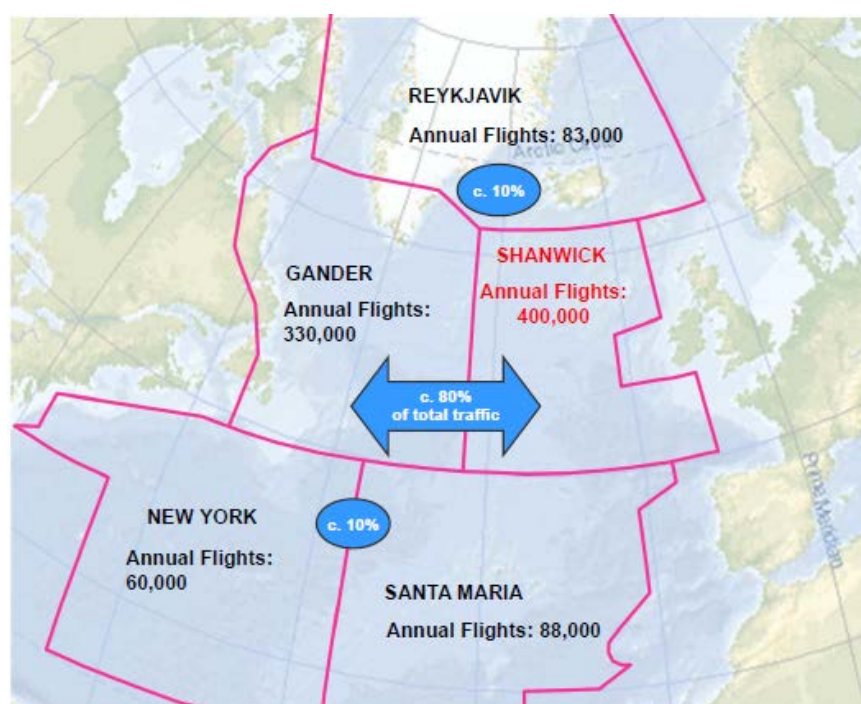
- 1.8 The CAA is allowing 29 days for comments on this document. Subject to the scale and nature of the responses received the CAA plans to publish its final decision on the proposed modification to condition 22 during December 2014. This will allow the conditions to take effect on 1 January 2015.

Chapter 2

Background

- 2.1 The management of the Shanwick area of oceanic airspace over the North Atlantic is delegated to the UK and Ireland by ICAO². The UK is responsible for air traffic service and datalink communications while Ireland is responsible for high frequency communications.

Figure 2.1: Service Providers in the North Atlantic



Source: NERL

- 2.2 As shown in Figure 2.1, the Shanwick area is one of five service providers across the North Atlantic. The management and development of airspace governed by ICAO is through the North Atlantic System Planning Group (NATSPG) and sub-groups. The vast majority of flights (c.80%) are handled by a combination of the Shanwick service and the service provided by Nav Canada from Gander.
- 2.3 Oceanic is a non-surveillance operation (i.e. there is no radar coverage). Separation of aircraft is assured through clearance and management of planned flight trajectories. For transatlantic flights there is an organised

2 International Civil Aviation Organisation - an agency of the United Nations Organisation.

track system (OTS), planned on a daily basis, depending on the position of the prevailing Jetstream, to minimise the adverse effect on westbound flights and maximise the benefit to eastbound flights.

- 2.4 There is considerable collaboration between NATS and Nav Canada at both a strategic and a tactical level. NATS has a long-term strategic relationship with Nav Canada for the provision of the Oceanic flight data processing system and supporting datalink systems. This technology is currently being upgraded and replaced under the COAST programme (collaboration of Oceanic airspace and system tools) based on a high level of commonality with the equivalent systems being implemented by Nav Canada. At a tactical level NATS and Nav Canada share planning of the OTS for Shanwick and Gander with NATS focusing on westbound and Nav Canada on eastbound flights.
- 2.5 The Oceanic business is a relatively small part of the NERL business with costs and revenues representing about 4% and the regulatory asset base representing about 3% of the NERL business.
- 2.6 The CAA currently regulates the maximum that NERL can charge users for Oceanic services by means of a condition in the NERL En Route Licence issued under the Transport Act 2000. The current charge control was set in December 2010. The maximum charge per Oceanic Flight was £64.92 in the year April 2011-March 2012. This maximum was then constrained to fall (in real terms) by the increase in the Retail Price Index (RPI) minus 4 percent (RPI-4%) in each of the three succeeding years until the year ending March 2015.
- 2.7 Although the Oceanic service does not fall under the SES performance scheme, the CAA asked NERL to consider the Oceanic service as part of its mandate for the Customer Consultation process in summer 2013, alongside its proposals for domestic services under SES. The CAA considered that this would be an efficient approach for both NERL and users. The initial business plan issued by NERL in May 2013 prior to Customer Consultation therefore identified its plans for Oceanic services and one of the workshops during the consultation period was devoted to Oceanic.
- 2.8 At the conclusion of Customer Consultation the joint Chairs of the Working Group³ reported that Airlines agreed with the Oceanic strategy presented by NERL in the Revised Business Plan (RBP). Airlines were also keen to engage with NERL on the options and costs for satellite surveillance.

3 The two joint Chairs were nominated respectively by NATS and the airlines.

2.9 In July 2014 the CAA consulted on proposals for a new charge condition that would apply for the five years from 1 January 2015 to 31 December 2019. These proposals would end the current charge condition three months earlier than originally specified in order for it to be aligned on a calendar year basis with NERL's other regulated charges. (It is anticipated that in these circumstances NERL would also change the charging year for Oceanic charges to a calendar year.) The CAA held a workshop on the proposals on 1 September 2014 and the consultation period closed on 25th September 2014. The CAA received submissions from

- British Air Transport Association (BATA)
- British Airways (BA)
- International Air Transport Association (IATA)
- NATS
- NATS Trades Unions Side (NTUS)
- Virgin

2.10 Chapter 4 summarises these responses in terms of overview comments and answers to specific questions posed in the consultation document. The full text of responses is published on the CAA website⁴.

4 <http://www.caa.co.uk/default.aspx??catid=5&pagetype=90&pageid=585>

Chapter 3

Outline of proposal in the consultation document

- 3.1 The consultation document proposed the continuation of a simple price control with the features summarised below.
- 3.2 The control period going forward would be for calendar years rather than the current 31 March year:
- This would mean that the final year of the current price control would be for 9 months ending 31 December rather than a full year.
 - This would have some impact on the profitability, all other things being equal, given that it would bring forward the use of lower traffic forecasts and lower costs for the new control period. It would also imply a gain to NERL due to the benefits of relatively more peak months in the nine months April to December compared to a full year.
 - The CAA proposed not to make any adjustment from the above effects on profitability. The effects of bringing forward traffic and forecasts appear to cancel each other out while the unanticipated benefit to NERL in 2014/5 was not expected to be as great as the revenue shortfall due to lower traffic in that year compared to what was anticipated for CP3.
- 3.3 The correction term would be changed so that it operates two years in arrears, when all the relevant information is known in line with the approach for Eurocontrol Charges. (It is currently specified to operate one year in arrears based on forecasts.)⁵
- 3.4 The price control would take the form CPI-Z* rather than the current RPI-Z:
- This will make the indexation consistent with the requirements for the vast majority of NERL's services regulated under SES and thus avoid administrative complexity.
 - The value of CPI-Z* would be set at an expected level equivalent to what it would have been if specified as RPI-Z.

⁵ In practice this correction mechanism has not been active because NERL has charged at exactly the allowed maximum rate. It remains a technical possibility that NERL could charge at more or less than the allowed maximum rate.