

Proposal to modify NATS (En Route) plc licence in respect of reporting and Specified Services: Notice under section 11(2) of the Transport Act 2000

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CHAPTER 1

Introduction

Purpose of this document

- 1.1 This document invites representations on proposals by the CAA:
- to modify a number of conditions in the licence held by NATS (En Route) plc ('NERL') so that NERL's regulatory reporting is generally moved from a financial year to a calendar year basis;
 - to modify certain conditions in NERL's licence to harmonise more closely CAA and EC reporting requirements; and
 - to modify Schedule 4 of the NERL licence. Schedule 4 defines a number of Specified Services that NERL is required to make available under its licence.

Views invited

- 1.2 Under section 11(1) of the Transport Act 2000 (the Act) the CAA may modify the conditions of a licence if its holder consents to the modifications. NERL, as licence holder, has given its consent to the modifications proposed in this document.
- 1.3 Under section 11(2) of the Act, before making modifications to a 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. This document constitutes such a notice.
- 1.4 Any representations about the proposals in this document 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

- 1.5 The CAA expects to make representations available on its website for other interested parties to read as soon as practicable after the period for written representations expires. 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.
- 1.6 If you have any questions on this document please contact Paul Taylor on 020 7453 6232 (or by e-mail to paul.taylor@caa.co.uk).

Next steps

- 1.7 Once it has considered representations the CAA will decide what modifications, if any, to make to NERL's licence. It will publish notice of its decision which is proposed to take effect on 1 January 2015.

Chapter 2

Background

Regulatory reporting

- 2.1 Currently, NERL's reference date for the purposes of its statutory and regulatory accounts is 31 March. For regulatory accounts this reference date is a condition of NERL's licence. NERL currently reports financial performance (including regulatory accounts) and provides related certificates to the CAA on the basis of a 31 March year end. NERL also produces its multi-year Business Plans and annual Service and Investment Plans on a financial year basis.
- 2.2 At the same time NERL also provides an increasing amount of financial information to the European Commission on the basis of a 31 December year for a substantial part of its business. The UK is also required to provide performance plans on the basis of a 31 December year end. This reporting period is mandated by EC legislation.
- 2.3 The current arrangements duplicate work and make reconciliations more difficult. For the purposes of transparency, efficiency and ease of monitoring and enforcement the CAA sees considerable merit in aligning the reporting arrangements for UK and EC regulatory purposes. It would also help to reduce the reporting burdens on NERL and so satisfy the new duty placed on the CAA through section 104 of the Civil Aviation Act 2012 not to maintain unnecessary burdens in its regulation of air traffic services under the Transport Act 2000.
- 2.4 The CAA understands that NERL has no present intention to modify its statutory reporting period for Companies Act purposes so its financial year will remain at April/March. Consequently, the CAA is not proposing to change the periods of the availability of resources statement or the financial gearing reports that NERL produces under Condition 5 of its licence but proposes to modify paragraph 26(b)(i) of Condition 5 so for reports on gearing this refers to the future period of 1 April 2015 to 31 March 2020 and to delete paragraph 27 as this relates to a past period. For the purposes of gearing measurements, the value of the Regulatory Asset Base (RAB) will be based on the RAB as at 31 December each year rolled forward as appropriate to March and September. The CAA is proposing to modify the definition of 'Value of the RAB' in paragraph 29 of Condition 5 accordingly.

- 2.5 The effect of the change being proposed is that the following documents produced under the licence would be moved to a calendar year basis with effect from 1 January 2015:
- The annual regulatory accounts (Condition 6);
 - The NERL Business Plan (Condition 10);
 - The annual Service and Investment Plan (Condition 10); and
 - The annual service standards statement (Condition 11).
- 2.6 As a consequence of these changes, the annual Business Plan Report under Condition 10 would also be prepared on a calendar year basis with effect from 1 January 2016.
- 2.7 There will need to be transitional arrangements in order to minimise any unnecessary burdens on NERL of moving from a financial to a calendar year for reporting purposes.
- 2.8 Annual regulatory accounts would be produced by NERL for the financial year 2014/15. NERL would ask its auditors to verify the RAB at 31 December 2014 and regulatory accounts would then be produced for the calendar year 2015 and onwards. NERL has proposed that for reasons of cost, internal workload and to avoid disruption, the audit of the regulatory accounts should continue to be undertaken during the same period as the audit of the NATS group's and NERL's statutory financial accounts. This would mean that while future regulatory accounts would be based on a 31 December year end, the audit of the regulatory accounts would be completed and the regulatory accounts signed off by 31 July. The CAA would be satisfied with such an arrangement.
- 2.9 For the annual Service and Investment Plan (SIP) the CAA has considered several options:
- Option 1. Run on the current 2014 SIP for the period from 1 April 2015 to 31 December 2015 with the next SIP covering the calendar year 2016.
 - Option 2. NERL to consult users on and produce a new SIP for the nine month period from 1 April 2015 to 31 December 2015 with the following SIP covering the calendar year 2016.
 - Option 3. NERL to consult users on and produce a new SIP for the period 1 January 2015 to 31 December 2015 recognising that this will overlap with the current 2014 SIP for the period 1 January 2015 to 31 March 2015.