

Terminal Air Navigation Services (TANS) contestability in the UK: call for evidence

CAP 1605

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Provision of Terminal Air Navigation Services (TANS) in the UK: Call for evidence

1. The CAA is calling for evidence regarding the provision of terminal air navigation service (TANS) in the UK. The CAA is seeking evidence to provide assistance and advice that the Secretary of State for Transport (SoS) as requested on 24 October 2017 under Section 16 of the Civil Aviation Act 1982.¹

Background

2. Under the Single European Sky legislation, air navigation services are subject to a Performance Scheme covering cost efficiency, capacity, safety and environment. European Regulation (EU) No 391/2013 ('the Charging Regulation'), laying down a common charging scheme for air navigation services, allows for exemptions to be made from some aspects of the Performance Scheme, including the requirement to set cost efficiency targets for TANS, where 'market conditions' exist. The criteria that the European Commission ('the Commission') currently uses to judge whether such conditions are in place are set out in Annex I to the Charging Regulation and in Appendix A to this document.
3. The Commission is in the process of reviewing both the performance regulation (European Regulation (EU) No 390/2013) and the Charging Regulation ahead of the next Reference Period (RP3 – 2020 to 2024). This review and any changes to the regulations are expected to be completed and adopted by June 2018. It is possible that the criteria for assessment may change as part of this review, however under the current regulations Member States are required to submit requests for exemptions 19 months before the start of the Reference Period – i.e. by May 2018 in the case of RP3. It is

¹ Department for Transport letter to CAA – 24 October 2017, available at <https://www.caa.co.uk/WorkArea/DownloadAsset.aspx?id=4294986929>

therefore necessary to begin this review now, but be mindful that there may be some changes in the assessment criteria during the course of the review.

4. It not yet known what the impact of the UK's exit from the EU will be in terms of the applicability of the Single European Sky Performance Scheme. This call for evidence will contribute to our understanding of market conditions in the UK TANS market, which may also help inform future domestic policy development. Nonetheless, for the purposes of this review we are assuming that the Single European Sky Performance Scheme will continue to apply to the UK.
5. The CAA has carried out two assessments, at the request of the SoS, as to whether the provision of TANS at UK airports with over 70,000 instrument flight rules air traffic movements² is subject to "market conditions":
 - In 2013, we advised (in CAP 1004³) that market conditions were not present. Our review identified concerns in several areas, relating to: the relationship between the NATS TANS provider (NATS Services Ltd (NSL)) and its en-route provider (NATS En Route Plc (NERL)) in terms of identity and branding, and the transparency of dealings between the two companies; historical commitments to employees with respect to pension arrangements, which could affect the availability of staff, or the terms and conditions of transferring staff; and a lack of competitive tenders and evidence of contracts changing hands.
 - In 2015, we advised (in CAP 1293⁴) that TANS was subject to market conditions. Our view drew on decisions by Birmingham and Gatwick airports to change provider (from NSL to self-provision at Birmingham and from NSL to Air Navigation Solutions Limited (ANSL) at Gatwick).

² Currently Heathrow, Gatwick, Manchester, Stansted, Edinburgh, Birmingham, Luton, Glasgow and London City airports meet this movement threshold.

³ www.caa.co.uk/cap1004

⁴ www.caa.co.uk/cap1293