Transitions of Terminal Air Navigation Services (TANS) provision: Further information for stakeholders

CAP 1633

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Introduction

From 2013, we have seen the most significant changes in the TANS market in the UK for many years:

- Birmingham Airport changed provider from NATS Services Limited (NSL) to Birmingham Airport Air Traffic Limited in 2015;
- Gatwick Airport changed provider from NSL to Air Navigation Solutions Limited (ANSL) in 2016;
- Belfast City Airport changed from self-supply to NSL in 2016; and
- Edinburgh Airport is due to change provider from NSL to ANSL in 2018.

In December 2015, Andrew Haines (CAA Chief Executive) wrote to airports and Air Navigation Service providers (ANSPs) advising that the European Commission had decided that market conditions exist in the UK TANS market, and that he expected them to respond positively to the decision. He also said that the CAA would be appointing an independent consultant to examine the transition processes at Birmingham and Gatwick.

The CAA engaged Steer Davies Gleave (SDG) to review the transitions to new providers at Birmingham and Gatwick. The aim of the reviews was to identify the key challenges and issues faced during the transitions, and the key learning points to minimise the cost and time taken for future transitions of TANS providers. In February 2017, the CAA published three reports:

- Review of TANS provider transition at Birmingham
- Review of TANS provider transition at Gatwick
- Review of TANS provider transitions at Birmingham and Gatwick - recommendations final report

One of SDG's main findings concerned the transfer of staff when there was a change in TANS provider. For transitions that do not involve NSL, the staff of the outgoing provider may transfer to the new provider under the Transfer of Undertaking (Protection of Employment) (TUPE) legislation. However, NSL staff that have been continuously employed by NATS since the Public Private Partnership (PPP) have the right to remain with their existing employer, if NATS is not able to assure them of the continuation of their existing defined benefit pension rights under their new employer. This right is in the Trust of a Promise (ToaP) agreement between NATS, the Secretary of State and the Law Debenture trustees. In both the Birmingham and Gatwick transitions, the incoming ANSP had to second air traffic controllers (ATCOs)

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from NSL to fully staff their operations until they were able to recruit and train sufficient ATCOs to fully operate the services.

The CAA recommends that airports, and ANSPs read the SDG reports to make themselves aware of the issues that arose during the Birmingham and Gatwick transitions, and may occur during transitions at other airports.

Recommendations

SDG made a number of recommendations to airports, the CAA and incoming ANSPs about the transition process. The CAA has considered these recommendations and has taken them into account in suggesting the following issues that market participants may wish to consider further. Some of SDG's recommendations were addressed to the CAA. Most of them took the form of issues that SDG recommended that the CAA bring to the attention of airports and/or incoming TANS providers. These are dealt with in the issues that airports and incoming TANS providers should consider below. Some of SDG's recommendations were about the CAA's own processes, these are dealt with in Annex 1. The CAA intends to implement the majority of SDG's recommendations, but there are a small number that we do not intend to take forward at present, as explained further in Annex 1.

For the avoidance of any doubt although the CAA considers the approach to issues in this information note to be good practice they do not guarantee a successful tender or TANS transition process and are not a substitute for proper due diligence by all parties concerned.

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