Consultation on Draft Advice on Market Conditions for Terminal Air Navigation Services in the UK

CAP 1634

Documents
Document Sharing Hub

Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Full document details: UKCAA CAP 1634 2018
Licensee=/, User=,
Not for Resale,

Published by the Civil Aviation Authority, 2018

You can copy and use this text but please ensure you always use the most up to date version and use it in context so as not to be misleading, and credit the CAA.

This document is the non-confidential version where the [✂] symbol has been used where text has been excised to protect commercially sensitive information.

The latest version of this document is available in electronic format at www.caa.co.uk, where you may also register for e-mail notification of amendments.

Documents
Document Sharing Hub

Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Full document details: UKCAA CAP 1634 2018

Licensee=/, User=,
Not for Resale,

Contents

Contents **1**

Chapter 1 **4**

Introduction and Summary 4

Legal framework 4

Context for our assessment 6

Summary of our assessment 7

Timetable and how to respond 8

Process to date 8

Timetable 8

How to respond 8

Structure of this advice document 9

Chapter 2 **11**

Definition and history of TANS 11

Definition of TANS 11

History of UK TANS provision 12

2013 to 2015 13

2015 to present day 14

Chapter 3 **16**

High-level issues 16

Stakeholders' overarching views on market conditions 16

Alternative providers 18

Views on Recent Transitions 21

Chapter 4 **22**

Contracting and Staffing Issues 22

Approach to TANS contracting 22

Contracts let 22

Tender process 24

Contract duration 27

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

NSL/NERL interface 30
Trust of a Promise (ToaP) 32
Access to qualified ATCOs 34
Chapter 5 36
Other Issues 36
Transition set-up costs 36
New technology – remote towers 37
Consultation with airspace users 39
Benefits to users 41
Chapter 6 43
Market conditions test 43
Conclusion 46
Assessment of the existence of market conditions for the provision of Terminal Air Navigation Services [...] 47
CAA questions to stakeholders in the November 2017 Call for Evidence 48
Airport Operators 48
ANSPs 49
Airspace users 51
Summary of reviews of Birmingham and Gatwick transition 52
Birmingham transition 52
Staffing issues 52
Assets, equipment and information 53
Timing and costs 53
Quality of service 53
Gatwick transition 53
Staffing issues 54
Assets, equipment and information 54
Timing and costs 54
Quality of service 54
SDG recommendations for future transitions 54
Summary of the relevant findings from CAP 1293 56
Criterion one 56

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

Criterion two 57
Criterion three 57
Criterion four 58
Criterion five 58
Criterion six 59
Conclusion 60
List of stakeholders consulted 61

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

CHAPTER 1

Introduction and Summary

1.1 This document sets out for consultation the draft findings of our review, requested by the Department for Transport (DfT), of whether the UK terminal air navigation services (TANS) sector is subject to market conditions at relevant UK airports. This assessment is based on criteria set out in relevant EU legislation ahead of Reference Period 3 (RP3) of the Single European Sky (SES) Performance Scheme (2020-2024).

1.2 The CAA's draft finding is that TANS provision at the airports in scope of this review is subject to market conditions. If this draft finding is confirmed after consultation, we will advise the DfT accordingly. The DfT can then apply to the European Commission (EC) for exemption from those elements of the EC's Implementing Regulation No 391/2013 (charging regulation) which apply to the provision of TANS. If accepted by the EC, the UK will not be required to calculate determined costs, set financial incentives, and to set terminal unit rates for TANS for RP3.

Legal framework

1.3 The performance scheme - under the European Commission's (EC) Implementing Regulations No's 390/2013 (the performance regulation) and 391/2013 (the charging regulation) - sets out measures to improve the overall performance of air navigation services, through setting targets to drive performance in four key performance areas – safety, environment, capacity, and cost-efficiency.

1.4 Member States must apply the performance regulation to TANS provided at airports with 70,000 or more instrument flight rules (IFR) air transport movements (ATMs) per year. Member States may decide not to apply the performance regulation to TANS provided at airports with fewer than 70,000 IFR ATMs per year.[1] The airports currently in scope are: Heathrow, Gatwick, Manchester, Stansted, Luton, Edinburgh, Birmingham, Glasgow and London City. Bristol and East Midlands airports were not included in the previous review. However, as their traffic is close to but below the

[1] Article 1(3) of Implementing Regulation (EU) No 390/2013 says that Member States may decide not to apply this Regulation to TANS at airports with fewer than 70,000 IFR ATM per year; which is available from: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32013R0391

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

70,000 IFR ATM threshold, they may reach the threshold during RP3. The DfT asked us to consider all of these airports in our review.

1.5 The charging regulation lays down a common charging scheme for air navigation services and allows for exemptions from some aspects of the performance scheme, including the requirement to set cost efficiency targets for TANS, where the provision of TANS is subject to market conditions (as defined by the criteria set out in Annex I of the charging regulation and are included in this document at Appendix A).

1.6 The CAA has conducted this review in response to a request from the Director of Aviation at the DfT. The DfT requested that the CAA provide advice to the Secretary of State for Transport (SoS) under section 16(1) of the Civil Aviation Act 1982.[2] Under this section, the CAA has a duty to provide advice to the SoS when requested to do so.

1.7 In 2015, the CAA examined whether TANS in the UK was subject to market conditions. Our report – 'Review of advice on SES Market Conditions for Terminal Air Navigation Services (TANS) in the UK'[3] – showed that a number of significant changes within the market for the provision of TANS in the UK had taken place since our 2013 assessment of market conditions. These changes included TANS transitions at UK airports to both self-supply and third-party entry into the market. These developments demonstrated that market conditions exist, and this conclusion was adopted by the EC on 6 October 2016.[4]

1.8 In CAP 1293[5] we said that if, by the end of 2016, most of the airport operators whose contracts were nearing termination at that time had not notified some form of open tender for TANS provision, we would conduct a formal review of the market. Some airport operators have tendered and some are preparing to tender in the future. We consider that this review fulfils the commitment we made in CAP 1293 to review the market.

---

2 Letter to Andrew Haines CEO (CAA) from Dan Micklethwaite Director of Aviation (DfT), 24 October 2017, available at: https://www.caa.co.uk/WorkArea/DownloadAsset.aspx?id=4294986929

3 CAP 1293 'Review of advice on SES Market Conditions for Terminal Air Navigation Services in the UK', May 2015 available at: www.caa.co.uk/cap1293

4 Commission Implementing Decision (EU) 2016/1940 of 6 October 2016 on the establishment of market conditions for terminal air navigation services in the United Kingdom, available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016D1940

5 Paragraph 7.4 CAP 1293, 'Review of advice on SES Market Conditions for Terminal Air Navigation Services in the UK', May 2015, which is available from: www.caa.co.uk/cap1293

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

1.9 We do not yet know how the UK's exit from the EU will impact on the applicability of the SES Performance Scheme. For the purposes of this review we are assuming that the SES Performance Scheme will continue to apply to the UK throughout RP3. The DfT has also advised that irrespective of the UK's future relationship with the EU there is a need to put in place a performance plan with targets for the UK's air navigation services from 2020. This would need to be informed by up to date information on the provision of air navigation services and so this review is consistent with this wider policy context.

Context for our assessment

1.10 The CAA has not carried out a competition assessment using its concurrent competition law powers, for example a market study under the Enterprise Act 2002, or an investigation under the Competition Act 1998.[6] Further, the CAA does not consider that the Annex I criteria constitute a test of whether the market for TANS is fully competitive, whether any individual operator holds a position of significant market power or whether there are any other features of the market that may have an appreciable effect on competition that might be considered separately by the CAA under its competition powers. As part of this assessment, the CAA is not required, nor has it sought, to define the scope of the market(s), assess any potential market dominance and/or address actual or potential behaviour(s) displayed by any party. Further, the CAA does not consider that it is bound by its assessment under this test in relation to any potential investigatory or enforcement action it may take in the future using its concurrent competition law powers, or any other powers.

1.11 We note that the EC has not published guidance on the application of the test set out in Annex I of the charging regulation. We have conducted this review in line with our earlier assessments.[7]

1.12 We also note that the EC is currently reviewing the performance and charging regulations, with a view to amending them ahead of RP3. The EC has yet to come forward with drafting proposals, so we are unable to say whether there will be changes to the market conditions provisions. We do not currently envisage significant changes to the assessment criteria for RP3 and the EC is aware we are conducting a review for RP3.

---

6 CAP 1235 'Guidance on the application of the CAA's Competition Powers', May 2015, is available from www.caa.co.uk/CAP1235

7 CAP 1004 and CAP 1293.

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

Summary of our assessment

1.13 We consider that the sector continues to be subject to market conditions on the basis of the assessment set out in Chapter 6, as summarised below:

- we have not found any significant legal or economic barriers that prevent a service provider from offering to provide or withdraw from the provision of TANS;
- we have not found any significant legal or economic barriers that prevent airport operators from exercising choice in service provider or to self-supply;
- there is a range of TANS service providers and there are public tendering processes available to UK airports;
- all airports in the UK (even those with substantial market power) are either subject to economic regulation or actively compete for airline business – and so all face commercial incentives to manage the costs of TANS;
- where TANS providers also provide en route air navigation services, these activities are subject to separate accounting and reporting arrangements;
- this assessment applies to TANS operations at all airports in the UK subject to the relevant EC regulation.

1.14 The assessment of market conditions does not mean that the TANS market is fully competitive. We have already taken a number of steps to encourage the development of competition. For example, in 2015, we wrote to stakeholders encouraging them to respond positively to the expected decision by the European Commission that the market conditions existed in the UK for the provision of TANS.[8] This included encouraging airports operators to follow open tender processes when their TANS contracts come to an end. We have also commissioned Steer Davies Gleave (SDG) to review recent TANS transitions and are publishing alongside this document an information note to stakeholders following that review.[9]

1.15 We continue to encourage airport operators to tender their TANS provision when TANS contracts approach their end and, where appropriate, we will react to significant market developments. This could include considering whether there are any initiatives that would support the development of

8 This letter is available at: https://www.caa.co.uk/WorkArea/DownloadAsset.aspx?id=4294978478

9 This is available in www.caa.co.uk/cap1633.

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

competition in this sector. For example, in the section on "NSL/NERL[10] interface" in Chapter 4 we note that steps can be considered to provide further information to market participants in the context of tenders and the tools at our disposal to enforce the separation arrangements between NERL and NSL that exist in NERL's licence.

Timetable and how to respond

Process to date

- 24 October 2017: request for advice made by the DfT;
- 13 November – 8 December 2017: the CAA called for evidence from industry regarding changes in the provision of TANS in the UK. The questions we asked are set out in Appendix B; and
- a list of respondents to the call for evidence, and the stakeholders we interviewed to support the evidence gathering, is set out in Appendix E.

Timetable

- 12 March 2018: the deadline for written responses to this consultation;
- March 2018: the CAA is due to provide advice to the SoS; and
- May 2018: the CAA expects to be able to publish its advice to the SoS.

How to respond

1.16 This document is open to consultation until 12 March 2018. Please email your response to economicregulation@caa.co.uk by close on 12 March 2018.

1.17 If you would like to discuss any aspect of this document please contact Rod Gander (Rod.Gander@caa.co.uk) or Pedro Pinto (Pedro.Pinto@caa.co.uk).

1.18 Given the short timeframe, it is unlikely that the CAA will be able to take full account of submissions made after the deadline.

Transparency and confidentiality

1.19 In the interests of transparency, we intend to publish as much evidence as possible on our website. With this in mind, if your submission includes confidential material, we request that you provide both confidential and non-confidential versions. The non-confidential submissions will be published on our website with the final report. As this request is made in support of our duty under section 16 of the Civil Aviation Act 1982, information provided to

[10] NATS Services Ltd (NSL) and NATS En Route Plc (NERL)

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

the CAA is subject to the disclosure requirements under section 23 of that Act.

1.20 The CAA will provide the SoS and the EC with both your confidential and non-confidential submissions. Please note that we have duties with respect to disclosure of information under the Freedom of Information Act 2000 and it may be necessary to disclose information consistent with that.

1.21 Please confirm in writing if you consent to any personal information which is included in your response (e.g. name, role and contact details of the person submitting the response) being included in the data we send to the SoS and placed on our website. If you do not consent, please send us a version of your response that does not include personal information.

Structure of this advice document

1.22 The remainder of this document sets out the CAA's analysis and findings. It is structured as follows:

- Chapter 2 covers the definition and history of TANS.
- Chapter 3 analyses the following high-level issues:
  - stakeholders' overarching views on market conditions;
  - alternative providers; and
  - views on recent transitions.
- Chapter 4 focuses on contracting and staffing issues and, in particular:
  - approach to TANS contracting;
  - contract duration;
  - NSL/NERL Interface;
  - Trust of a Promise (ToaP) /staff transfer from incumbent provider; and
  - access to qualified ATCOs.
- Chapter 5 discusses other relevant issues for this assessment:
  - transition set-up costs;
  - new technology – remote towers;
  - consultation with airspace users; and
  - benefits to users.

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

- Chapter 6 provides CAA's assessment against the criteria of the market conditions test.

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

Chapter 2

Definition and history of TANS

2.1 This chapter outlines the development of TANS in the UK to date and covers milestones that have led to this review. It is structured as follows:

- definition of TANS; and
- history of UK TANS provision.

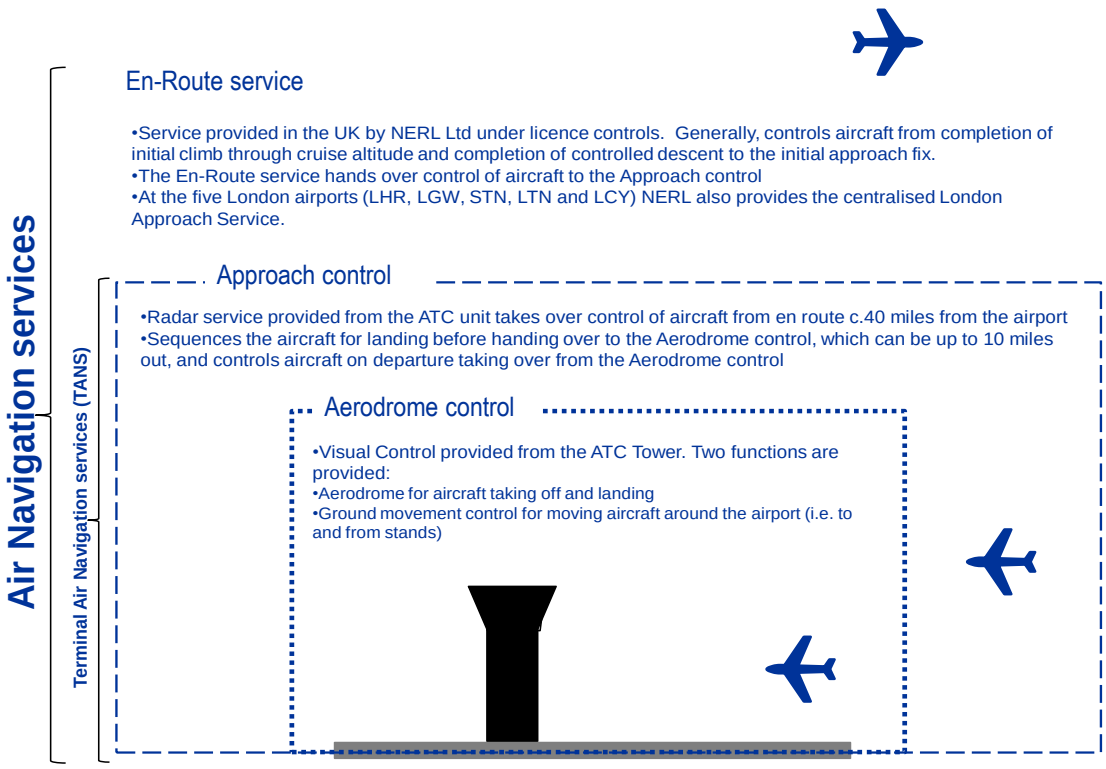
Definition of TANS

2.2 Air traffic services are separated into the "en route" service, which controls traffic during the cruise phase of the flight away from the airport environment, and TANS. TANS itself normally consists of two elements: (a) the "radar approach and departure" (approach) service and; (b) the aerodrome service. The approach service typically controls the aircraft within 40-50 nautical miles from the airport. The approach service for a number of airports can be combined and, in the case of the airports within the London terminal manoeuvring area, these have been centralised for safety and efficiency reasons. The unified approach service, the so called "London Approach" service, is provided by NATS En Route Plc (NERL) under its licence granted under the Transport Act 2000. The CAA has not examined the London Approach service as this is provided under licence by NERL and is not subject to competition.

2.3 Figure 1 (below) illustrates the scope of TANS.

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

Figure 1: Illustrative definition of air navigation services



History of UK TANS provision

2.4 The Transport Act 2000 paved the way for the privatisation of NATS through a Public-Private Partnership (PPP).

2.5 In March 2004, the European Parliament and the Council of the European Union adopted the first Single European Sky (SES) legislative package. This set out the initial framework for a pan-European approach to the regulation and governance of airspace. Since 2004, the SES legislation has provided the framework for the regulation of TANS.

2.6 In 2011, Luton Airport conducted the first public tender process for TANS. The contract was awarded to the incumbent, NATS Services Ltd (NSL). This was followed in 2012 by a public tender by Birmingham Airport, which resulted in a move to self-supply.

2.7 In February 2012, at the request of the DfT, the CAA published an assessment of whether TANS in the UK is subject to market conditions under Annex 1 of the EC Regulation 1794/2006. This assessment found that the market conditions did not exist under the conditions of the test due to a low level of market activity in the provision of TANS in the UK.

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

2.8 Consequently, the DfT did not seek derogation for TANS from the SES Performance Scheme[11] regulatory requirements.

2013 to 2015

2.9 Based on 2013 data, NSL accounted for around 60 per cent of aircraft movements at airports in the UK. The remaining 40 per cent was self-supply. There were no third-party TANS providers providing TANS at commercial airports. However, a number of contracting events took place at UK airports in 2013 and 2014 including:

- change of provider for the TANS service at Birmingham Airport from NSL to Birmingham Airport Air Traffic Ltd (BAATL). BAATL is wholly owned by Birmingham Airport;
- NSL was awarded a further five-year contract by Belfast International Airport in April 2013;[12]
- NSL was awarded a further five-year contract by Cardiff Airport in January 2014;[13]
- the announcement by GAL in July 2014 that it would be awarding, after a tender process, its contract for TANS to Air Navigation Solutions Limited (ANSL, a subsidiary of Deutsche Flugsicherung GmbH (DFS), the main ANSP in Germany);[14] and
- NSL was awarded a ten-year contract by the Manchester Airports Group (MAG) in August 2014 to provide TANS at both Manchester and Stansted airports.[15]

2.10 In 2015, the CAA advised that TANS in the UK was subject to market conditions, primarily on the basis of the new contracting events that had allowed for change in TANS provider at a number of airports. A summary of the relevant findings from CAP 1293[16] is available in Appendix C.

---

11 Now Annex I of EU 390/2013: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:128:0001:0030:EN:PDF

12 This airport is not in scope of this review. For further information see http://www.nats.aero/news/belfast-and-gibraltar-airports-renew-contracts-with-nats/

13 This airport is not in scope of this review. For further information see http://www.nats.aero/news/nats-secures-five-year-contract-cardiff-airport/

14 For further information see http://www.mediacentre.gatwickairport.com/News/Gatwick-announces-contract-award-for-air-traffic-control-services-921.aspx

15 For further information see: http://www.nats.aero/news/mag-nats-announce-ten-year-deal/

16 CAP 1293, 'Review of advice on SES Market Conditions for Terminal Air Navigation Services in the UK', May 2015, which is available from: www.caa.co.uk/cap1293

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

2015 to present day

2.11 Since the publication of CAP 1293[17] the main developments in the TANS sector include:

- that new service providers have successfully established operations at Birmingham and Gatwick airports with no issues of service continuity or quality of service;
- we commissioned Steer Davies Gleave (SDG) to review the transitions at both airports.[18] SDG found that no issues had emerged in terms of continuity or quality of service, but identified a number of challenges that had emerged between the incoming and outgoing providers, particularly in relation to the transfer of staff and the transfer of information and data. A summary of reviews of Birmingham and Gatwick transitions is provided in Appendix D. An information note to TANS stakeholders, based on the SDG report, is available on our website[19];
- Edinburgh Airport decided, after a tender process, to change provider from NSL to ANSL. ANSL is due to commence operations in 2018;
- Belfast City Airport (which is below the threshold to be affected by the Charging Regulation), after a tender process, changed from self-supply to NSL in 2016;
- some airport operators have re-negotiated or extended their contracts with NSL, including London City which is planning to move from provision based in the control tower at the airport to remote provision;
- Luton Airport, whose current contract with NSL expires in October 2018, has appointed NSL to continue providing TANS for five years, following an open and competitive tender process[20]; and

17 See CAP 1293 – Review of advice on SES Market Conditions for Terminal Air Navigation Services in the UK, available at: www.caa.co.uk/cap1293.

18 This report is available at: https://www.caa.co.uk/uploadedFiles/CAA/Content/Accordion/Standard_Content/Commercial/Airspace/Air_Traffic_Control/TANS%20provider%20transition%20review%20-%20Final%20Consolidated%20Report.pdf

19 This is available at www.caa.co.uk/cap1633

20 See https://www.nats.aero/airports/london-luton-airport-chooses-nats-air-traffic-service-provider/

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

- AGS (the airport operator of Aberdeen, Glasgow and Southampton airports) extended its TANS contracts so that the three airport operators will end their TANS contracts at the same time (March 2021) when it intends to tender for TANS for all its airports.

Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018
Documents
Document Sharing Hub

Chapter 3

High-level issues

3.1 This chapter covers stakeholders' views and the CAA's views for the following high-level issues:

- stakeholders' overarching views on market conditions;
- alternative providers; and
- views on recent transitions.

Stakeholders' overarching views on market conditions

3.2 NSL considered that the CAA's 2015/16 assessment of the TANS market and more recent developments are evidence that the UK TANS market continues to evolve in a competitive manner and remains firmly subject to market conditions. In NSL's view, since the CAA's last review, the market has been very active with a range of open and competitive tenders, contract negotiation processes and airport operators changing to or from self-supply of TANS. It noted the successful transitions of TANS providers at Gatwick and Birmingham airports and the award of Edinburgh Airport's TANS contract to ANSL, following an open tender process.

3.3 ANSL is a recent entrant in the UK TANS sector. It has bid and successfully secured contracts for the provision of TANS at Gatwick and Edinburgh airports and is committed to grow its presence in the UK market. It has, however, expressed a number of concerns over how the market is functioning and has said that these issues should be addressed to encourage a more competitive and open TANS market. ANSL has not called for performance regulation of TANS to be introduced. Instead it would like to see more market opening action, either through changes in the regulation of NERL, new legislation and/or the application of competition law.

3.4 Of the UK airport operators that responded to the consultation, none considered that the provision of TANS at airports in scope of the regulations is not subject to market conditions.

3.5 Heathrow Airport is of the view that "there is contestability in the market for the provision of TANS in the UK following the recent changes." Heathrow Airport said it has no material concerns regarding barriers to changing TANS provider and has seen NSL become more responsive to the needs of

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

its customers as the threat of an alternative provider has increased.

3.6 Gatwick Airport considered that the TANS market has developed well, with NSL having to work harder to retain contracts. It said that increased competition in the TANS sector has driven down costs and improved service.

3.7 London City Airport considered that the TANS market has changed substantially in the past five years and there is more competition. It noted that NSL has not been able to re-secure a number of airport operator contracts and new players coming in (notably ANSL) and there is the potential for other European ANSPs partnering with technology providers to provide new TANS solutions. It said that airport operators have increasingly much more choice and do not need to rely on the national UK en route ANSP. It also considered that NSL has become more customer oriented and innovative as a result.

3.8 MAG considered that there have been improvements in market conditions over the last five years and that NSL has been directly impacted by recent changes in TANS provider at a number of airports across the UK.

3.9 Birmingham Airport said that recent changes have made the UK TANS providers and their customers more aware of the potential for changing providers. Birmingham noted that "this has, undoubtedly resulted in some airport operators negotiating their TANS contracts under more favourable conditions."

3.10 AGS indicated that "the market has become more active in recent years" and that NSL is "aware of the competitive forces at play". AGS also noted that, at this stage, it does not have any concerns about potential barriers to changing TANS provider.

3.11 Luton Airport considered that recent events demonstrated that there is competition in the UK TANS market and that there have been benefits from tendering services and these should continue in the future.

3.12 Southend Airport said that "the TANS Market for the larger UK airports is competitive, however, the evidence for regional airports suggests that TANS provision is largely through self-supply."

3.13 IATA agreed that there has been some maturing of market conditions with UK TANS, with some encouraging changes in service providers. However, IATA did not consider this to be a fully functioning market that demonstrably delivers benefits to airspace users as there is no evidence showing that efficiencies have been achieved and passed on to airport users in the form of lower charges.

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018

3.14 BA and Virgin agreed that there does appear to be a market developing for TANS in the UK but they also agreed with IATA's view that the UK is yet to have a fully-functioning TANS market that is demonstrably delivering benefits for airspace users.

3.15 Prospect[21] considered that the UK TANS market remains subject to market conditions, but that a cost-benefit analysis should be undertaken to determine whether the enforcement of a fully commercial and competitive market is the right approach for TANS and its stakeholders.

CAA's views

3.16 The CAA notes that no stakeholder said that the provision in TANS in the UK should be subject to performance targets under the SES performance and charging regulations. Most stakeholders agreed that the market was subject to market conditions and/or have noted positive market developments in recent years, while some noted remaining concerns on whether the sector is fully competitive.

Stakeholders' views on alternative providers

3.17 NSL told us that it viewed ANSL, Serco, LFV/Ports of Jersey Ltd, IAA and ATCSL/Peel as actual or potential competitors. Also, NSL expects more competitors to emerge as, in its view, the UK is becoming increasingly attractive to European ANSPs looking for opportunities to grow their business. NSL also expects new business models to emerge, including those using new types of TANS technology, i.e. remote towers.

3.18 DFS (ANSL's parent company) is one of the largest ANSPs in Europe. It is responsible for en route airspace and the operation of the majority of TANS in Germany. Its TANS operations include large airports such as Frankfurt and Munich. ANSL said it is committed to the UK market and would like to grow its presence in it. In its view, the challenges it faced with transition required a committed ANSP with broad shoulders to take on the risks associated with transition. It does not consider that many other potential market participants would be able to provide the level of competition that it has brought to the market.

3.19 The UK TANS market has, nevertheless, attracted interest from other

[21] Prospect is a trade union that represents almost 2000 ATCOs and 1000 air traffic systems specialists within the UK air traffic management system. Prospect was disappointed that we did not send the call for evidence to them. We explained that we sent the consultation to those who we are required to consult and put the call for evidence on our website so others could see it.

Documents
Document Sharing Hub
Copyright United Kingdom Civil Aviation Authority
Provided by IHS Markit under License with UKCAA
No reproduction or networking permitted without license from IHS
Licensee=/, User=,
Not for Resale,
Full document details: UKCAA CAP 1634 2018