

Economic regulation of Heathrow Airport Limited: H7 Initial Proposals

Section 3: Incentives and other issues

CAP2265D

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Chapter 12

Capex incentives

Introduction

- 12.1 In considering how best to further consumers' interests in relation to the costs of the AOS provided at Heathrow airport, we are required to have regard to the need to promote economy and efficiency on the part of HAL. Ensuring that we have appropriate incentives for HAL to make capital investments efficiently is a core means by which we seek to achieve this.
- 12.2 Promoting capex efficiency remains a priority in the context of a two runway airport: the impact of the covid-19 pandemic emphasises the importance of capex being made efficiently and delivering value for money for consumers. We remain of the view that forward looking ("*ex ante*") incentives, where HAL shares a proportion of the benefits of delivering capex projects below budget and experiences a proportionate disbenefit for any over-spend against budget is the best way to create such incentives.
- 12.3 The incentives we set involve setting a "baseline" against which HAL's capex efficiency can be assessed. As we have noted previously¹ and in chapter 3, the various capital investment plans provided by HAL through the H7 process provide insufficient information to allow for detailed scrutiny. The information that HAL has provided to date has been based almost entirely on "top-down" projections rather than on an assessment of the costs of specific projects and programmes supported by structured business case analysis and cost estimates.
- 12.4 As a consequence, further work remains to be done on certain aspects of the incentive framework such as establishing each of the capex category baselines and the associated deliverables at the start of the price control. To address this, these Initial Proposals set out our expectations for HAL to provide additional information and explore the possibility of stronger licence obligations on HAL to ensure that at the very least HAL has clear obligations to provide robust information as part of the "core and development" process that we envisage operating over the H7 period.
- 12.5 In this context, this chapter sets out:
- background information on our process to date;
 - a summary of stakeholder views including a description of HAL's proposal for an alternative incentive framework;
 - our views on stakeholder feedback;
 - our Initial Proposals for the capex efficiency framework; and

¹ See for example para 18 of the [April 2021 Way Forward Document](#).

- next steps and implementation including our approach to further licence obligations on HAL with respect to the provision of information on capex.

12.6 Appendix D provides more detail on aspects of our Initial Proposals, including capex categories, setting delivery objectives and obligations, the incentive rate, and timing incentives. Appendix H sets out our analysis of the proposed H7 capex incentives framework, against the CAA's duties as set out in CAA12.

Background

12.7 Over the last four years, we have consulted a number of times on our approach to capex efficiency incentives for the next price control. Our earlier consultations on these matters were in the context of capacity expansion where we said it was necessary to create appropriate incentives for capital efficiency to promote the overall efficiency and affordability of the programme.

12.8 While the expansion programme has paused, and much less capex will be needed during H7, creating stronger and clearer incentives on HAL to invest efficiently remains a key objective to furthering the interests of consumers regarding the cost of AOS by promoting economy and efficiency on the part of HAL.

12.9 In the past we have assessed cost efficiency of capex on a backward looking ("ex post") basis. This approach has typically involved us carrying out an efficiency review on a sample of investment projects after they had been completed. In previous consultations we said that this type of *ex post* efficiency framework has limitations including that it tends to be difficult due to the time elapsed since the investment was made and the normal information asymmetry between regulated company and regulator. It is also particularly contentious. Further, finding and quantifying evidence of inefficiency does not necessarily mean that the remaining expenditure has been incurred with the same level of efficiency that might be expected from an airport subject to the normal commercial incentives of a competitive market. For these reasons, we consider that stronger incentives are needed to protect the interests of consumers from the increased costs that they would otherwise face were HAL to make inefficient capex investments.

12.10 In this context, we consider that action is needed to strengthen the capex efficiency incentives on HAL, building on the positive features of the current arrangements. To achieve this, we have proposed a forward looking ("*ex ante*") incentive framework which includes financial incentives for the timely and efficient delivery of capex. Under such a framework the cost baseline, the associated outputs and the rules for dealing with variances and changing the arrangements are typically fixed before the project begins.

12.11 We have discussed our proposals for these new capex incentives as part of our ongoing engagement with stakeholders, including meeting with HAL and airlines separately to discuss our proposed approach. More recently, we held trilateral

workshops to discuss implementation of the new framework and we plan to continue this engagement beyond our Initial Proposals.

Summary of our proposed changes to capex incentives

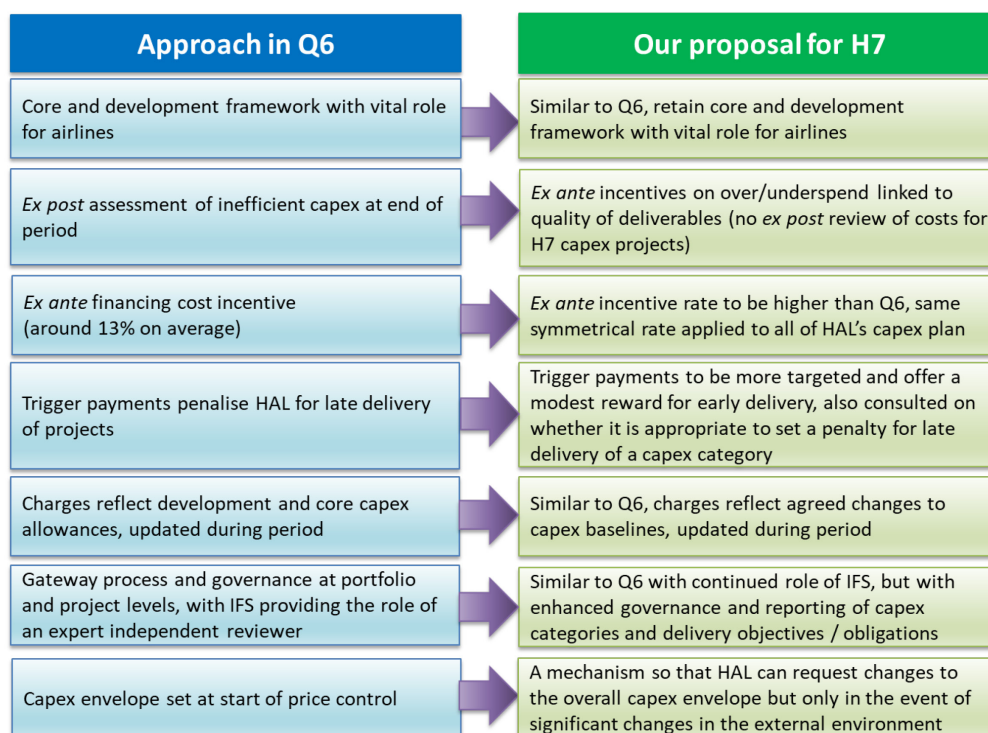
- 12.12 Through our previous consultations we have set out criteria for developing enhanced incentive arrangements and the broad approach that we have been developing for the H7 period. This is based on retaining key aspects of the current capex governance arrangements that appear to be working well, including HAL and airline engagement during the governance process, the IFS providing the role of an expert independent reviewer, and the flexibility of the core and development framework. Core capex refers to capital for those projects developed to a level that permits a firm investment decision; development capex refers to those that have not yet reached this stage but will do so later in the control period.
- 12.13 The April 2021 Way Forward Document confirmed our intention to introduce enhanced forward looking capex incentives, which build on the existing Q6 capex arrangements and aims to both incentivise efficient capex and enable the capital plan to respond to changing circumstances during the H7 period. In summary we suggested:
- clear symmetrical *ex ante* incentives to strengthen the existing capex efficiency arrangements, so that HAL bears a predetermined share of any under- or overspend against capex baselines;
 - HAL's capex programme will need to be split into a manageable number of capex categories based on clearly defined outputs being delivered and any significant differences in the degree of risk and controllability;²
 - a baseline established for each category of capex, linked to one or more delivery obligations which can be used to assess whether HAL has delivered the outputs and benefits agreed with airlines; and
 - flexibility that allows capex baselines to be updated during the H7 period in specific circumstances,³ provided that any changes are subject to appropriate governance arrangements and are agreed by airlines.
- 12.14 We also said that:
- *ex ante* incentives should be applied to all of HAL's H7 capex plan because we had not identified any areas of the plan that HAL should not be able to properly plan or reasonably control;
 - we intend to apply the same symmetrical incentive rate across all capex categories, and we will set the strength of the incentive taking account of our overall assessment of HAL's broader risk and reward package in the price control as a whole; and

² Examples of capex categories for H7 include security capex (around £420m) and T2 baggage (around £180m).

³ See table M2, Appendix M to the [April 2021 Way Forward Document](#).

- we consider that a new mechanism is needed so that, in the event of significant changes in the external environment during H7, decisions around large changes to the overall capital envelope can be agreed by airlines and reviewed by the CAA.

Figure 12.1: Summary of our proposal for H7 (April 2021 Way Forward Document)



Stakeholder views

- 12.16 HAL provided a summary of its proposal for a capital efficiency framework in its updated RBP. It commissioned consultants (Jacobs),⁴ to advise on this issue and develop a set of criteria against which to assess whether HAL's capex programmes are suitable for *ex ante* incentives. Based on this review, HAL has proposed that only certain capex categories should be subject to *ex ante* incentives.⁵
- 12.17 It proposed an *ex ante* incentive rate of 15% which it suggests is appropriate for H7 and that all remaining capex should be incentivised under the existing *ex post* framework.

⁴ Jacobs report on H7 Capital efficiency, June 2021. Submitted by HAL in response to the [April 2021 Way Forward Document](#).

⁵ Including its asset replacement programme and small sub-categories of the commercial revenue (protect existing revenues) and efficient airport (protecting efficiencies) programmes.

12.18 HAL mostly disagreed with our overall approach of applying *ex ante* incentives to all capex. Among other things it argued that:

- we have not made the case for an *ex ante* incentive framework and that a change to the existing *ex post* framework is not necessary because it already provides appropriate incentives on HAL to deliver capex efficiently;
- delivery obligations are not required for the asset replacement programme since requirements in relation to this type of capex investment already exist as part of HAL's service quality framework (and will be included within the H7 OBR framework);
- the existing core and development framework is flexible enough to address the level of uncertainty for the H7 period. HAL has also proposed a qualitative licence condition which would allow for a review of any material changes across building block assumptions in H7 (such as capex); and
- further clarification and guidance are needed on how specific aspects of our proposal would work in practice.

12.19 In contrast, airlines broadly supported our proposed approach and recognised the need for improved incentives:

- they agreed with our proposal to introduce *ex ante* incentives to HAL's entire capex plan, particularly given the outcome of the recent Q6 *ex post* capex efficiency review;⁶
- they said that a 15% incentive rate is not sufficient to incentivise efficient capex investment during H7 and instead consider that rates seen in other sectors would be more appropriate (for example, BA referred to incentive rates in the region of 30-40% in its response);
- airlines do not support HAL's proposal to use OBR measures instead of delivery obligations to assess whether HAL has delivered the agreed outputs of the capex investment;
- airlines consider that it is important to maintain triggers to incentivise HAL to deliver key projects on time, and ensure HAL is not unduly earning a return when projects had not been delivered to the agreed plan. They did not support all of the changes that we proposed to the trigger mechanism including rewards for early project delivery;
- airlines agreed that a separate mechanism (beyond the existing core and development framework) is needed to address any significant changes to the overall capital envelope that may be required during H7; and
- they also consider that the CAA needs to have an enhanced role in the capex governance arrangements during H7, particularly during the introductory phase of the new framework; this will ensure that projects, delivery obligations and capex categories are appropriately documented.

⁶ See Appendix E.

Our views and Initial Proposals

- 12.20 We remain of the view that we need to make improvements and enhancements to the existing capex framework to create stronger, more appropriate and clearer incentives for HAL so that capex is incurred efficiently in the interests of consumers
- 12.21 Our approach involves building on the strengths of the current arrangements including the governance arrangements that involve HAL and airlines working together to agree projects to take forward so that HAL's capital programme benefits from the expertise of airline stakeholders and delivers appropriate outputs for airlines and passengers. We also support the existing core and development framework but want to strengthen the change control arrangements to better address significant changes in HAL's overall capex programme.
- 12.22 The weaknesses of the present arrangements have been illustrated by our experience of our recent *ex post* reviews of Q6 capex and early expansion costs. These reviews have confirmed the extent to which assessing efficiency on an *ex post* basis is both difficult and contentious. For example, HAL and airlines often have very different views on whether a project has been delivered efficiently and assessing efficiency after a project has been delivered is challenging given the quality and depth of the information provided by HAL. Our recent review of the T3 Integrated Baggage project (T3IB) recognised that concerns were expressed about the sudden increase in spending by HAL of £40 million against a budget of £90 million.⁷ On the basis of the information available it was difficult to establish a clear case for inefficient spending but significant concerns remained about HAL's approach to project planning and cost control. Under an *ex ante* approach, there would be greater incentives on HAL to plan appropriately and deliver consistently within budgets.
- 12.23 Unless there is a clear case for an exception the enhanced incentives framework should apply across HAL's capex portfolio because:
- in general, HAL has not made a strong case that different capex categories warrant different treatment; and
 - different treatments would tend to create additional complexity and implementation challenges. For example, there is a risk of gaming by HAL if there were to be different categories where capex were treated differently.
- 12.24 More generally HAL's proposal for capex efficiency has not significantly changed since we last commented on the proposal set out in its RBP: in the absence of new and persuasive evidence, we have broadly retained the views we set out on HAL's proposal in the April 2021 Way Forward Document⁸ and summarised above. We explain our latest views on key issues further below.

⁷ See paras 1.23 to 1.27 of our [April 2021 Consultation](#).

⁸ See pages 106 to 107 of Appendix M, [April 2021 Way Forward Document](#).

Capex categories

- 12.25 Drawing on work by Jacobs, HAL proposed that three of the nine capex categories it has included in its updated RBP plan should be subject to *ex ante* treatment. Together, these would account for around 40% of its H7 proposed capex plan.

Table 12.1: HAL proposed capex categories and *ex ante* treatment

Capex category	% of the H7 portfolio	Suitable for <i>ex ante</i> treatment
Asset replacement – asset maintenance	36%	✓
Asset replacement – generational renewals (T2 baggage)	5%	X
Regulated security (compliance and transformation)	20%	X
Commercial revenue – protect existing revenues	2%	✓
Commercial revenue – generate incremental revenues	17%	X
Efficient airport – avoid material opex increases	2%	✓
Efficient airport – automation and digitalisation	9%	X
Carbon and sustainability	5%	X
Future ready airport	4%	X

Source: HAL updated RBP, Table 3, Chapter 6.1

- 12.26 While generally a helpful submission, we consider that the Jacobs report does not offer a balanced view and we do not agree with its main conclusions. For example, when considering complexity of capex activity, the report overlooks some key differences between airports and other sectors:
- HAL’s assets are confined to a specific operational site, compared to rail, water, or electricity assets that are spread around the country (often buried in complex urban environments);
 - HAL’s assets are relatively new compared to other industries (particularly rail and water) which have older assets of uncertain condition.
- 12.27 Arcadis has reviewed HAL’s proposed capex programmes to assess whether they need to be modified to meet our requirements for the purposes of setting incentives. Arcadis recommended that:
- most programmes proposed by HAL comply with the CAA definition of a capex category with similar risk and controllability characteristics; but
 - due to the variability of the “delivery risk” for projects included within the Asset Management and Future Ready airport categories, it is necessary to split these programmes into further capex categories that can better reflect our definition of a capex category.

- 12.28 We have included more detail on this in Appendix D and in the Arcadis report which we have published alongside this document⁹.
- 12.29 We have set our Initial Proposals for the structure of capex category baselines in Table 12.2 which reflects the key findings from the Arcadis review applied to our Initial Proposal for the H7 capex envelope.

Table 12.2: CAA proposed capex categories

Capex category	Indicative baseline, 2018 prices (RPI-real)
Asset management – tunnels	HAL to provide further information
Asset management – baggage	HAL to provide further information
Asset management – IT / technology	HAL to provide further information
Asset management – terminal	HAL to provide further information
Asset management – airfield	HAL to provide further information
Asset management – landside	HAL to provide further information
T2 baggage	£180 m
Security ¹⁰	£420 m
Carbon and sustainability	£38 m

Source: CAA

- 12.30 Where practicable, we have included an initial baseline for each capex category. We expect HAL to provide indicative forecasts for the new asset management categories as soon as possible. We also expect HAL to provide an indication of the amount of spend within each category that is core capex.
- 12.31 HAL's updated RBP also included spending for the Crossrail Contribution (£78m). We have included this as part of the H7 capex baseline proposed (see Chapter 3). However, we do not consider this is suitable for *ex ante* treatment because it is a fixed contribution that has been deferred from Q6, rather than a new investment decision. So, it has not been included in the capex categories in Table 12.2.
- 12.32 We also note that some of the projects HAL included in its asset management programme are projects that were already underway before the start of H7 (such as the Cargo Tunnel and Main Tunnel projects). We set out our views on transitional arrangements in the April 2021 Way Forward Document and we

⁹ HAL RBP Update - Review of capex categories and delivery objectives, Arcadis, October 2021
www.caa.co.uk/cap2266C

¹⁰ This includes only the "Regulated Security" element included in the RBP update 1 "Protect the Business" portfolio.

consider that this approach remains appropriate for our Initial proposals.¹¹ Where a project has already started and is materially underway before the start of H7 (in other words it has advanced beyond G3¹²), it will be treated under the existing Q6 framework and not under the H7 incentive framework. These transitional projects should be excluded from any indicative capex category baselines.

- 12.33 Based on information we have reviewed from HAL in the updated RBP, we estimate that these exclusions represent around 18% of our proposed H7 capex baseline. HAL has included £418 million of what it describes as “continued investment” projects, but it is not clear whether all of these projects have already started and have passed capex governance gateway G3. In addition, our understanding is that the T4 Hold Baggage Screening (“HBS”) project (£50m) has also not passed G3 and, therefore, we propose treating it under the H7 *ex ante* incentive framework. We expect HAL to provide evidence to demonstrate which projects have already passed G3 and so should be treated as legacy projects and excluded from the H7 *ex ante* framework.
- 12.34 We intend to engage with HAL and airlines further on our proposals for capex categories and transitional arrangements so that we can establish appropriate capex category baselines for our Final Proposals.

Delivery objectives and obligations

Setting delivery obligations

- 12.35 We do not agree with HAL’s proposal that metrics from the OBR framework should be used instead of delivery objectives to assess whether quality requirements have been met for a particular capex category. Service quality measures are designed for a different purpose: to incentivise and improve performance and quality of service at Heathrow airport. Therefore, they generally capture elements of delivery beyond specific capex programmes. For example, opex could have an impact on performance against some of these metrics. In addition, capex by its nature might be contributing towards longer-term outcomes, so HAL’s delivery of a capex category might not have an impact on service quality measures immediately.
- 12.36 For these reasons, we consider that it is important to develop delivery objectives and obligations for each capex category which will be used to assess whether HAL has delivered the outputs and benefits that have been agreed with airlines, at the point in time when we undertake our reconciliation of capex incentives.
- 12.37 HAL has included a list of “Programme Mandate one pagers” which set out a high-level objective for each programme in its plan. These objectives do not meet the definition and criteria that we set out in the April 2021 Way Forward Document, including the requirement that they should be “SMART”.¹³

¹¹ See para 78-79 of of Appendix M, [April 2021 Way Forward Document](#).

¹² G3 stands for Gateway 3 and is the point at which the investment decision is taken and the project transitions from development to core. Appendix C of the [August 2020 Working Paper](#) sets out further detail of the project gateway process.

¹³ Specific, Measurable, Achievable, Realistic, Time bound.

- 12.38 We asked Arcadis to develop illustrative examples of delivery objectives based on HAL's capex plan which we have included in Appendix D. We intend to discuss these examples with HAL and airlines further as part of our ongoing work on implementing the framework.
- 12.39 Nonetheless, HAL should as soon as possible provide:
- fully developed delivery objectives for all the capex categories included in its plan;
 - draft delivery obligations for any capex categories that are at a sufficiently advanced stage of development; and
 - for all other capex categories, where HAL cannot define a draft delivery obligation, include an indicative date during H7 when it expects the capex categories to be sufficiently developed so that delivery obligations can be set.
- 12.40 We have set out examples and further guidance and we encourage HAL to work with airlines to agree suitable delivery objectives for each capex category as part of its ongoing engagement to further develop its capex plan for H7. Where HAL does not provide delivery objectives in line with CAA guidance, we will assess HAL's updated capex plan and set out our view of appropriate delivery objectives for each capex category as part of our Final Proposals.
- 12.41 As projects in HAL's portfolio reach G3, the high-level delivery objective set at the beginning of H7 for each capex category will be updated to reflect more the specific metrics / requirements developed for G3. During H7, and through discussions between HAL and airlines, the delivery objective will become a delivery obligation, which should reflect, for each capex category:
- outputs;
 - quality requirements; and
 - timing requirements.

Assessing delivery obligations

- 12.42 Over the period of the H7 price control and following completion of the relevant capex projects/programmes, we will assess whether the delivery obligation has been met for each capex category. If the objective has been met, the G3 baseline becomes the final capex baseline for that category. If the delivery objective has not been met, we will make an adjustment for under-delivery which is applied to the baseline, and this adjusted baseline would become the final baseline.
- 12.43 HAL and airlines have asked us to clarify how we will assess whether a delivery obligation has been met and how the capex baseline will be adjusted if our conclusion is that a delivery obligation was not met. As noted previously, HAL has not yet proposed suitable delivery objectives or obligations to support its capex plan and so at this stage of the process we have identified a high-level approach to the assessment of delivery obligations. We intend to:
- monitor the delivery of capex categories continually during H7, and we plan to discuss the frequency and format of reporting with HAL and airlines;

- undertake a high-level review of whether delivery obligations have been met for all capex categories that have been delivered by the backstop date;
- take a proportionate approach, for example by conducting a more detailed review of a sample of capex categories, for example where HAL and airlines do not agree on whether the obligation has been met;
- use independent / technical advisors where appropriate;
- seek views from HAL and airlines when we carry out our assessment; and
- consult on any assessment / decision on adjustments to baseline that we propose.

12.44 To the extent it is practicable and reasonable to do so we will adopt a light touch approach, particularly where there is agreement between HAL, airlines and the IFS that a delivery obligation has been met. Nonetheless the burden of proof will be on HAL to:

- demonstrate that it has met the delivery obligation; and
- keep good records of what it has delivered.

Incentive rate

12.45 In setting the new incentives we need to establish an incentive rate, which is the proportion of any under or overspend that HAL will retain/absorb compared to the G3 baseline (after this is adjusted for any under delivery).

12.46 The evidence that we have available does not suggest that any of HAL's capex categories have significantly greater risk and/or that HAL has less control over outturn spending in relation to any of them. As a result, we propose to apply the same incentive rate to most of HAL's capex categories.¹⁴ We also intend for this to be a symmetrical rate so HAL is equally rewarded for upside and downside, to avoid distorting incentives for investment and to appropriately reward efficiency.

12.47 We are consulting on an incentive rate between 20% and 30% as part of these Initial Proposals.¹⁵ This proposed range recognises that:

- while we do not consider that HAL has made a strong case to justify excluding the majority of its capex categories from *ex ante* incentives, the analysis undertaken by Jacobs on behalf of HAL illustrates that HAL will face challenges in managing costs to a budget. In particular HAL has presented some reasonable evidence¹⁶ that the incentive rates seen in other sectors (in the region of 40-50%) are unlikely to be appropriate for H7;

¹⁴ As noted previously, Crossrail and Q6/iH7 transitional projects will be excluded from *ex ante* treatment.

¹⁵ Further detail of our analysis is summarised in Appendix D.

¹⁶ Jacobs report on H7 Capital efficiency, June 2021. Submitted by HAL in response to the [April 2021 Way Forward Document](#).

- we consider that we need to create stronger incentives for H7 compared to the 13% financing cost incentive¹⁷ that exists in the Q6 capex framework to drive efficiency in the interests of consumers;
- we consider that setting a uniform incentive rate for all capex subject to the incentive regime will lead to a regime that is clear, avoids boundary/classification difficulties and avoids creating unforeseen consequences in the operation of the incentive;
- we are proposing further incentives on HAL to deliver capex projects on time including triggers and penalties for late delivery (see further below);
- these are new incentive arrangements and so we should proceed with a degree of caution; and
- we also recognise that the flexibility offered by the core and development framework means that the baseline against which we assess HAL's performance can be updated during the period as new information becomes available which provides a level of forecasting risk protection for HAL.

12.48 Finally, we note that we are intending to assess HAL's cost performance against the G3 capex baselines which means that the incentive rate would not apply to pre-G3 development capex that HAL incurs.¹⁸

12.49 We will engage further with stakeholders on the appropriate incentive rate to inform our Final Proposals.

Timing incentives

12.50 We consider that it remains appropriate to include further mechanisms in the capex framework so that HAL faces additional incentives to deliver capex on time, including:

- updates to the trigger mechanism, so that triggers are only applied to exceptional, material, complex and strategically important projects, and HAL would receive a modest reward (10% of the penalty payment) if it both delivers the project ahead of the agreed trigger date and where early delivery before the trigger date would result in clear benefits to consumers;
- where they are specified, the timing element of delivery obligations will provide an additional incentive for HAL to deliver capex categories on time; and

¹⁷ HAL has previously provided a stylised example to demonstrate the Q6 financing cost incentive is around 13% because HAL does not recover the financing costs associated with any overspend or underspend against the capex baseline agreed at Gateway 3.

¹⁸ Under the current core and development framework, as development capex transitions to core capex, the G3 capex baseline is updated to reflect pre-G3 development capex incurred, plus the new, forward looking capex baseline agreed between HAL and airlines as projects pass G3.

- it may also be appropriate to set a penalty for failing to deliver a capex category against an agreed delivery date,¹⁹ which would create a strong incentive on HAL to avoid lengthy delays in delivery.

12.51 We set out further details of our proposals on timing incentives in Appendix D.

Dealing with changes to HAL's capex programme

12.52 There will continue to be uncertainty in relation to future passenger demand which will have implications for HAL's capex plan. Also, chapter 3 notes that HAL's proposed capex plan is not as developed as we had expected at this stage of the price setting process. We recognise that a flexible approach is required for H7, but we do not agree with HAL that the existing core and development framework alone provides suitable protections for consumers to address significant changes in the capex envelope.

The core and development framework

12.53 We propose to maintain the flexibility currently provided by the core and development framework in dealing with individual projects. This approach should reduce the risk of unintended outcomes (which should benefit both HAL and consumers) as the risk associated with estimating the costs of projects should be much lower once HAL commits to a baseline as part of the G3 capex governance gateway.

Dealing with significant changes in capex requirements

12.54 While it is a helpful framework it is important not to expect too much of the core and development governance arrangements, which focus on individual projects. Therefore, we are proposing a new mechanism for H7. In the event of significant changes in the external environment, decisions around changes to the overall capex envelope can be agreed by airlines and reviewed and agreed by the CAA. This process should involve the following:

- HAL must demonstrate that additional capex requirements, beyond the initial capex envelope set as part of the H7 Final Proposals, are driven by a change in circumstances from the time when the H7 determination was made. Such capex initiatives could include projects or programmes proposed by HAL in its business plan but not included by the CAA in the H7 baseline, or new initiatives responding to changed external circumstances;
- prior to making a submission to the CAA, HAL would need to consult with airlines on the need for additional capex, timelines for delivery and detailed cost information; and
- once a submission is made, the CAA would review the level of consultation carried out and the quality of the information provide to stakeholders by HAL. Where HAL and airlines are in agreement we would only intervene if we had a significant concern that new capex was not in consumers' interests; and

¹⁹ The date beyond which penalties apply is set at a constant deadband of 12 months from the agreed date of delivery of each capex category.