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Submitted via email to: economicregulation@caa.co.uk

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Dear Stuart,

Norwegian's Response to CAA Consultation on Gatwick Airport Limited's New Commitments

Norwegian welcomes the opportunity to respond to CAA's consultation (CAP1973) relating to the new 'commitments' proposal as the underpinning framework for economic regulation of Gatwick Airport Limited (GAL). We would also like to confirm our support for the separate response from the Gatwick Airport Consultative Committee to this consultation.

Priorities and Concerns for Norwegian

The aviation sector is in deep economic crisis due to COVID-19 travel restrictions that have been implemented by various governments and public health authorities since March 2020. In most cases the measures that were introduced in the spring, have remained in place, or toughened throughout the crisis so far. As a result of the restrictions and constantly changing travel advice, there has been a dramatic collapse of new airline bookings and historically reduced traffic levels, which have led to similarly adverse effects on GAL's passenger volumes.

Norwegian has been forced to take bold and big decisions to mitigate the impact of this grave situation on its finances and operation. Against this extremely uncertain and unpredictable backdrop, we recognise the challenges GAL has had in submitting a proposal that can confidently set the conditions for the next 4 years. However, the current situation should not hinder GAL from putting forward proposals that are ambitious, with passenger's interests in mind, and most importantly are tangible enough to ensure that actual improvements will take place.

Norwegian is concerned that the current proposal is not precise enough in terms of a delivery plan for changes and on the measures how the CAA will monitor and enforce these proposals to be executed during the next period. We are also concerned over the proposed capital investment level, especially as the 'price' proposal has not been updated by GAL since the beginning of the engagement process on this consultation with the airlines in 2018 despite very different market conditions we find ourselves now, although in principle welcome the proposed cap. With a very uncertain way ahead for the aviation sector, we encourage the CAA to take a much more forward-looking perspective with a clear set of requirements for GAL during the next period, to allow the sector to commence the recovery phase after this global health emergency, and then to stabilise and start growing again, whilst keeping the operating conditions and environment as predictable as possible during the next period, and beyond.

Feedback on Service Quality and Rebates

Norwegian is pleased that the CAA has been putting specific focus on GAL's current and proposed measures for service quality standards and targets. We are particularly encouraged that the CAA expects GAL to introduce tighter targets for the 'core' service standards, this is especially important to continue attracting passengers to Gatwick Airport during the next period.

In highly competitive market conditions, it's particularly important to have service quality measures that are meaningful, and truly drive towards improved standards. Therefore, the introduction of quarterly rather than annual average targets, and removing the 'core hours' measuring concept, are welcomed by Norwegian. We also recognise that service quality measures and targets would need to be periodically redefined, so that they remain relevant and effective, as an example we welcome the proposal for the CAA to monitor seating facilities in departure lounge. Norwegian will continue to play an active part in the dialogue between GAL and the airport users, and we encourage the CAA to closely monitor the progress as several key areas require further clarity, namely.

Security – the current COVID-19 pandemic has exposed some fundamental weaknesses in the technology that GAL is using as the requirement to wear a face covering is preventing the ability to measure security search queue times. The priority for GAL needs to be the implementation of a suitable technical solution that works in different passenger recognition conditions, and in all areas of the passenger 'journey' e.g., in flight connections, followed by measurements that are based on passenger numbers, rather than time segments that poorly reflect the 'actual' experience for passenger's and staff.

Airfield Assets and Runway Availability – we support the proposal that the 'core' hours concept for airfield assets needs to be replaced with a new measure that truly reflect GAL's performance in this critical area. It's worthwhile pointing out that when the overall performance is poor as a result of airfield, runway or any other infrastructure being unable to cope with the unrealistic demands set by GAL, it's the airlines that foot the bill both financially and reputationally, and when GAL's over declaration of capacity impacts operations, then it generally falls on the airlines to also remedy the situation.

Our biggest concern relates to airfield congestion as GAL has chosen to declare an unsustainable level of capacity during the peak months, as an example, the recovery from a 30-minute runway outage is likely to lead to a full-day of recovery for the airlines due to aircraft and crew being out of rotation. In our view GAL needs to be more accountable on how congestion is managed and what actions, including recruitment for key roles, is taken to minimise the impact on passenger experience and overall operational performance. We encourage the CAA to look at specifically how the increase in 'taxi and hold' has increased since GAL's 'Drive for 55', including the impact on consumers and the environment.

Finally, compensation should be based on the impact that is felt by airlines and not a capped amount, therefore there needs to be a mechanism that is tangible, and in a clearly measurable way, assess the financial penalties payable by GAL, much as the airlines have to.

Feedback on Capital Investment

As already reflected in this response, the aviation sector has been dramatically impacted by the COVID-19 pandemic, and the period it takes to recover from these effects will likely be lengthy and uncertain. In this context, the proposal to invest a minimum of £120m per annum until 2025 is welcomed by Norwegian, but we remain concerned how GAL will consult with the airlines on investment projects and priorities.

Additionally, we have existing, and new concerns, over the actual level of investment required by GAL, as during the timeframe that falls within the next commitments period, we are likely to see a big increase in

traffic levels and responding to this demand whilst the ageing infrastructure issue at Gatwick Airport remains unresolved. Norwegian encourages the CAA to continue to monitor the level of investment by GAL, however, we feel that is also important to monitor how investments are consulted and projects prioritised.

Finally, we would like further clarity, why the CAA has assessed the £120m annual investment commitment over a 6-year period i.e., 2019 – 2025, when the actual next commitments period is only 4 years from 2021 until 2025?

Feedback on Price Commitment

As the process leading to this current consultation commenced in 2018, Norwegian was cautiously welcoming the proposed for RPI+0% cap on the core yield during the next period. We also welcomed the proposal to introduce a trigger that adjusts the price and refunds the over-recovery should GAL exceed the cap. With these generally positive proposals put forward by GAL, the only missing element was further information on the assumptions and data that was used to introduce such a cap, and for such a long period of time.

Considering that the request for these details to be provided was submitted to GAL in 2018, which was a moment when the aviation industry was experiencing record growth, no further information or background data has been received by Norwegian, or by any other airline according to our knowledge, throughout this timeframe, despite the aviation industry being on the verge of collapse at present. Keeping in mind that the price commitment proposal has not been adjusted at all despite these extreme opposite end situations for the sector, logically it is very difficult to agree with CAA's on own analysis of the GAL proposal *"that our analysis suggests that this cap can strike a reasonable balance between the interests of GAL and those of its passengers and airlines"*, we therefore request urgent clarifications on this CAA analysis and what data has been submitted by GAL to allow the CAA to make a such firm and conclusive statement.

Conclusion

CAA wrote in its 2018 consultation document (CAP1684) *"We encourage GAL to come forward with a compelling, evidence-based proposition that both responds to airlines' input about the outcomes and outputs that it should deliver and demonstrably promotes consumers' interests"*, this request has clearly not been fulfilled by GAL in the final version of the proposal. The scenarios that were used in 2018 when GAL published the initial version of the proposal can clearly no longer be applicable considering the realities that the sector is facing during the COVID-19 pandemic, and most likely during the recovery period post the health emergency, both phases expected to take place during the next commitments period.

CAA's own analysis of the GAL proposal states that *"While we cannot rule out scenarios under which the [price]cap might allow GAL to earn relatively high profits towards the end of the next period, there are other scenarios under which GAL's profits might remain at a relatively low level throughout the period"*, Norwegian remains extremely concerned over the actual price development at Gatwick Airport, as the current proposal offers no protection on the 'net' price that the airlines pay as per the bilateral contracts, which may contain future elements that will lead to an reduction in the achievable discounts, and increased revenues to GAL.

Whilst we welcome the monitoring on various aspects of economic regulation and operational performance that the CAA will impose on GAL, there are no other controls and measures in the proposal that prevents GAL from doing the 'bare minimum' until 2025, before dramatically increases charges and spend to allow it to execute the plans in the 'Gatwick Master Plan' which is due to be executed during the next commitments period.

Yours sincerely,

Mika Sihvonen
Airport Regulation Manager