

Civil Aviation Authority  
CAA House  
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Sent by email: paul.smith@caa.co.uk

11th January 2022

Dear Sirs

**RE: Consultation Response: Economic regulation of Heathrow Airport Limited: H7 Initial Proposals (CAP 2274) and Draft licence modifications (CAP2275)**

I write on behalf of Pandox, as operator of Hilton Garden Inn London Heathrow in respect of the ongoing consultation regarding the economic regulation of Heathrow Airport Limited (“HAL”) and should be grateful if the Civil Aviation Authority (“CAA”) would take into account the following comments.

**Overall duties on CAA**

The CAA must carry out its functions under Chapter 1 of the Civil Aviation Act 2012 (“CAA2012”) in a manner which it considers will further the interests of users of air transport services regarding the range, availability, continuity, cost and quality of airport operation services. Guests at Hilton Garden Inn London Heathrow are very likely to be users of air transport services at Heathrow.

In meeting that duty, the CAA must promote economy and efficiency on the part of each holder of a licence under Chapter 1 CAA2012 in its provision of airport operation services at the airport to which the licence relates. The ‘single till’ approach to regulating finances at Heathrow Airport Limited dictates that this must include all charges levied by HAL and not just the provision of airport operation services. Inefficiencies in any aspect of HAL’s costs will directly affect the range, availability, continuity, cost and quality of airport operation services.

**Approach to C2 conditions – Other Regulated Charges**

As the CAA state at paragraph 47 of CAP2265A:

*“Other regulated charges (“ORCs”) are charges for specified services and facilities that are collected separately from the general regulated airport charges (that are subject to price control). They are, in general, levied on a “user pays” basis. The costs of providing these services form part of HAL’s overall cost base and the revenue associated with these charges is included in the “single till” calculations used to set the price control. So, consideration of ORCs is a necessary part of the overall price control review.”*

As you know HAL has proposed a number of changes to the ORC framework, including:

- a move to a “marginal cost” approach under which the relevant fixed costs would in future be recovered through the regulated airport charges; and
- moving all costs for check-in facilities, IT, heating and gas to be recovered through the regulated airport charges, as these are used by all passengers.

CAA have accepted these changes, which we support which will reduce the overall costs of utilities provided to us by HAL and better reflect the market price of such services.

However, there are two issues that flow from the decision of CAA to accept this change, that should in our view, be incorporated into the regulatory framework applied by CAA and the licence conditions it sets.

### **H7 price control: Condition C2**

Firstly, whilst condition C2 seeks to ensure that HAL provide clarity on the way in which charges for ‘Specified Facilities’ are set (and differences between forecasts and actual revenue) it completely fails to incorporate any steps that are designed to ensure that HAL is providing these services economically and efficiently. As such the CAA is not performing its functions in a manner which will further the interests of consumers or the need to promote economy and efficiency on the part of licensees in the provision of airport operation services.

As you are aware, the Civil Aviation Act 2012 gave the CAA powers to enforce competition law by enabling the CAA to exercise powers concurrently held with the Competition and Markets Authority. These powers include the enforcement of competition law principles such as ensuring that a business that holds a dominant position is not exploiting consumers or abusing its position. We believe that the utilities charges levied by HAL in recent years have been exorbitant and an abuse of this dominant position.

We therefore call on the CAA to extend and expand upon the current C2 conditions to achieve that objective, whether by the incorporation of some specific requirements to set prices by reference to the relevant market (outside of the airport) where that is relevant (such as provision of utilities) or by putting in place specific price caps. The CAA such also concern itself, in far more detail than it has to date, with the way in which HAL procures its own services and resources to ensure that it is doing so efficiently in the overall interests of users of air traffic services.

Consideration should also be given to using the CAA’s proposed Outcome Based Regulation framework to drive efficiency (and drive down costs) in the provision of specified services.

### **Previous price controls**

The second issue is the question of how the CAA is proposing to ensure that relevant consumers are reimbursed for the overpayments they have made to HAL in respect of ORCs that have been levied in previous years, calculated entirely by HAL, with seemingly no direct oversight by the CAA and in a manner that clearly inappropriately included fixed costs.



For illustrative purposes (using 2019 consumption figures) utility costs for 2021 for those users of Specified Facilities at Heathrow would have increased by 36.3% and water costs by 83.3%. Our research has identified that the electricity average pence per unit of 32.08p/kWh was nearly 140% higher than another local hotel not being provided with electricity by HAL. Whilst there may well be additional charges incurred through maintaining a private supply network, this cannot possibly account for such a huge differential in pricing.

In my submission, the approach taken by CAA to the pricing of ORCs by HAL has failed to promote economy and efficiency in the provision of such services. This should be addressed by additional and more specific licence conditions, greater oversight and transparency in the calculation of prices and an approach in H7 that seeks to offset the unreasonable charges levied during previous price control periods.

Yours Sincerely

A handwritten signature in black ink, appearing to read "Richard Lee", with a horizontal line underneath.

Richard Lee  
General Manager  
Hilton Garden Inn London Heathrow Airport

