

Response to NATS (En Route) plc Price Control Review for Control Period 3
CAA Consultation February 2010

GAA Initial analysis

The following extracts from responses are relevant to GA and relate to transferring some £5m to £6m per annum to GA from the airline charging scheme.

Virgin Atlantic

General Aviation and NERL Services

Virgin Atlantic does not accept that civil aviation should absorb or subsidise the costs of service or facilities necessary for the safety of general aviation (GA) on the basis that the creation of controlled airspace is primarily a necessary measure to protect the safety of commercial aviation. In our view these measures are safety and compliance issues necessary for GA for which the CAA and Government has responsibility. It can be considered that within the current model commercial aviation is paying twice, firstly for a safe service inside controlled airspace and secondly to keep non-equipped GA aircraft outside. GA should pay its fair share of costs.

Easy Jet

No. We do not support the CAA's proposed treatment of costs incurred by general aviation (GA) traffic. It is clear that NATS incurs significant costs in ensuring that GA traffic does not affect the safety of commercial aviation operations. Many of these activities are designed to ensure that GA traffic does not infringe controlled airspace – in other words it is designed to detect safety risks incurred by GA traffic. There does not appear to be any robust rationale for why commercial aviation should be responsible for funding safety measures that it only needs because of the actions of others.

The CAA appears to take the view that commercial aviation is an imposition on aviation in the UK and that therefore it should pay for the 'right' to have controlled airspace¹. We are not aware that this view has any basis in law, and it ignores the fact that commercial aviation accounts for the vast majority of aviation's economic activity. We note that the Economic Regulation Group's activities are almost entirely focussed on commercial aviation, therefore, it seems odd that it is arguing GA has primacy.

We appreciate that the CAA has to strike a balance between the different aviation sectors, and we do not expect the CAA to ignore the needs of general aviation. However, the CAA has in other areas (such as minimum equipment requirements) recognised that all parties should bear the costs of delivering safe airspace – this should be applied to the costs of airspace management as well.

BA

We consider that the CP3 price control should be set on the basis of the costs that NERL incurs in providing services to its Commercial customers.

We do not believe that the charges made to NERL's commercial customers should include increasing levels of additional operational and capex project costs required in offering services to General aviation.

The argument that Commercial airspace users should pick up the cost, as controlled airspace is for their benefit, is seriously flawed. First, it is not true that the design and extent of controlled airspace is driven by the requirements of commercial operators. DAP exists to balance the needs of all airspace users and the extent of controlled airspace is strictly limited in order to maintain as much uncontrolled airspace as possible, especially at lower levels. Small aircraft can also operate in controlled airspace on the same terms and conditions as larger aircraft. The design of airspace is therefore driven by the principles of safety, efficient use of airspace and nondiscrimination, according to the national interest. Therefore we do not agree that commercial airlines impose an external cost on GA.

Second, it is not true that the risk of infringements is related to the amount of commercial traffic. The numbers of infringements and serious risk bearing incidents involving GA aircraft are increasing significantly despite the fact that commercial traffic levels have fallen in recent years and the available airspace at lower levels used by GA has not decreased, and in some areas, has increased. Nor has the increased work by NATS to try and deal with the problem improved the situation. This indicates that the increase in infringements does not result from an increasing squeeze on GA by commercial aviation, and that it cannot easily be addressed by NATS. We conclude that the rising number of infringements reflects a serious problem with GA training, knowledge and equipment levels that can be solved only by addressing these shortcomings directly.

If the GA community had to pay for the costs of services provided to them by NATS, they would be better able to make a business case for addressing the shortcomings in training/equipment revealed by these incidents. The CAA's proposal to insulate GA from the external costs and the safety risks that they impose on other airspace users takes away their responsibility to operate safely. In our view, the CAA and the GA community must take responsibility for addressing this serious risk through the most cost effective means, whether that is by improving the training/examination requirements and/or by mandating equipage and/or by paying NATS for services that are provided for them.

In any case, the Single European Sky charging regulation does not permit passing GA costs onto other users. EU Regulation 550/2004 Article 15 3(b) states "exemption of certain users, especially light aircraft and State aircraft, may be permitted, provided that the cost of such exemption is not passed on to other users."

We cannot therefore accept that the costs of services provided to GA, which according to the consultation paper amount to some £5-6m pa, should be included in NERL's cost base.

While there may be no current NATS charging mechanisms in place for GA, the GA costs can be paid for either by Government (who collect revenues from GA via the tax on fuel) or by the CAA (who have several safety charging mechanisms including private pilot licences and charges to training schools etc.). It is also open to the Government to extend the exemption and not recover the costs, perhaps for a transitional period. (Please also refer to Section 11.62)

BMI

Farnborough LARS and ATSOCAS

We have no objection to capital spend, that contributes towards the protection of Commercial & General Aviation (GA) aircraft, being included in the CP3 Baseline Business Plan (examples of this in CP2 were the Farnborough LARS and ATSOCAS) so long as those parties such as GA that are in receipt of increased utility from this capital spend (through increased safety of its members), paying their fair share towards such capital.

In the absence of this, GA free rides, obtaining benefits without paying costs, which leads to both parties enjoying the benefits, but only one party paying the costs.

We would consequently recommend that any income from GA should be made available to reduce the capital spend, and to reduce the capex plan in CP3 (see response to question 4.64)

General Aviation (GA)

GA benefits from positive externalities. The CAA states in the consultation document that: 'the design and extent of controlled airspace are driven by the requirements of commercial operators, it is reasonable they should meet the associated costs, even when others may need to use these services'

What stems from this though is that GA enjoys an immense positive externality from controlled airspace in terms of improved safety which commercial aviation pays for.

Economics dictates that the consequence of one party in receipt of utility and receiving a positive externality that it has not paid for, is that it will overconsume that service, or in this case, do nothing to reduce its infringements, which bear cost to another party. GA has no incentive to change its behaviour.

Duty of Care

There is a duty of care on both sides to avoid potential for collision. Currently Commercial Aviation is meeting its duty of care – NERL has spent £0.4m on Farnborough LARS in 2007 and £4.7m on ATSOCCAS management in 2009 (funded through airline charges).

This cost has been incurred to address increasing incidents of potential GA collisions which are a function of GA's sporadic use of transponders. Those transponders that are turned on are often non-mode S transponders which do not provide altitude position.

As a result GA is compounding the externality (requirement for controlled airspace), and not meeting its duty of care obligation - GA must pay for its share of the externality it is creating.

Potential Benefits of providing incentives to GA

- Improved safety for both GA & commercial aviation by reducing the probability of a collision
- Reduction of re-routing required when infringements occur. This brings the following benefits:
 - Environmental (through reduced fuel emissions)
 - Financial (through reduced fuel consumption)
 - Passenger experience (through reduced delay).

All of these stem from more direct routings as airspace does not have to be cleared when infringers are spotted.

This brings a reduced cost burden on the operator which then represents a smaller cost that has to be passed through to the passenger.

European Law

EU legislation supports the case for GA to pay its fair share. It mandates the charging to GA through EU regulation 550/2004 Article 15 3(b):

"Exemption of certain users, especially light aircraft and State aircraft, may be permitted, provided that the cost of such exemption is not passed on to other users"

This is unequivocal – consequently GA should incur its fair share of costs in accordance with the EU's regulations on the provision of air navigation services.

Potential Solutions

The options available to change GA's behaviour include:

- A monetary payment contributing a fair share towards the capital cost of safety systems
- Make compulsory the carrying and turning on of transponders in UK airspace/parts of UK airspace (Transponder Mandatory Zones)

The optimal solution would be to implement both.

Conclusion

bmi recommends that CAA considers charging GA in order to provide the benefits outlined above. In the absence of this, we would support the creation of more Transponder Mandatory Zones

London City Airport

We concur with the CAA's recommendation not to introduce a separate charging scheme in respect of small aircraft

IATA

We do not accept however, that civil aviation should absorb or subsidise the costs of service or facilities necessary for the safety of general aviation (GA) on the basis that the creation of controlled airspace is primarily a necessary measure to protect the safety of commercial aviation. In our view these measures are safety and compliance issues necessary for GA for which the CAA and Government has responsibility. It can be considered that within the current model commercial aviation is paying twice, firstly for a safe service inside controlled airspace and secondly to keep non-equipped GA aircraft outside. GA should pay its fair share of costs.

Our concern regarding costs driven by military and GA requirements also arises in regard to items within the NERL Capital Expenditure plan (Chapter 11) including the NERL License requirement for Primary Radar, the inhibited rationalization of navigation aids, and the provision of SBAS/EGNOS based systems.

BATA

In its response BATA does not address any GA issues.

NATS

In its substantial response NATS does not address any GA issues.