

***RYANAIR response to
“A consultation on the CAA’s process for developing economic regulation for
the Reference Period Two under the Single European Sky”***

Cost Efficiency

At this stage, RYANAIR’s over-riding concern at the process, proposed by the CAA for RP2, is in the area of cost efficiency. RYANAIR is particularly concerned to note the proposal that NATS (the most expensive en route service provider in the EU) be asked to model inadequate improvements in cost-efficiency and that stakeholders be once more invited to engage in consultation around these national parameters, before EU-wide targets - towards which the UK NPP should be making a significant contribution - have been made known.

RYANAIR draws attention to the European Commission letter (Matthew Baldwin 6th July 2012) which makes clear “the UK could and should have contributed more in respect of cost efficiency” and that “if you “owe” the system in RP1, the “debt” remains in RP2.”

RP2 targets must be set within the framework of the original SES targets (adopted in 2009 by Parliament and Council) which, for cost-efficiency, stipulated a halving of the average cost per flight (based on 2005 levels) to Euros 400 by 2020. The UK, a member of the EU Transport Council, agreed the adoption of the SES II legislation and is legally required to make adequate contribution to achievement of the EU-wide goals.

The UK failed to meet even the modest RP1 EU-wide target of -3.5% p.a. cost-efficiency by claiming immunity under CP3 economic regulation. The CAA claimed they were required under national law to enter into a new period of Economic Regulation of NATS, on the expiry of CP2 in 2010 and made assurances that, EU law taking primacy over national law, CP3 targets would be amended, if it was found that they did not offer the required contribution to achievement of the EU-wide targets for RP1.

In the event, the UK NPP, originally submitted to the Commission, fell well short of the required contribution and was rejected. The above assurance notwithstanding, the revised UK NPP still failed to make the contribution, expected by the PRB on behalf of the Commission, to enable achievement of the EU-wide target. The Chair of the PRB is on record (Bruges Aviation Summit Oct 2010) as having warned that any downward adjustment of the originally-proposed EU-wide target of -4.5% -5% p.a. would inevitably mean a steeper curve in RP2, of the order of -12.75% p.a.

The CAA approach requiring NATS to develop various scenarios for DUR reduction of between -2% and -5% only (para 5.3) fails to address the shortfall of RP1. With EU-wide performance targets for RP2 not being made known before June 2013, it is difficult to understand why the CAA would request NATS to model clearly inadequate cost efficiency improvements and engage with stakeholders to discuss these insufficient rates of improvement.

Paras 7.12 and 7.13 of the CAA's document, in the context of modifications to the NERL licence read:

“The CAA is keen to avoid pre-empting the European Commission's approval of the LPP and so it will defer a consultation on modifying the NERL licence until as late as possible before the expiry of the current conditions....

To mitigate this process risk in relation to expiry of the licence conditions the CAA can either modify the NERL licence for one year only, or modify the licence for the full RP2 period, but make it clear that this is contingent on European Commission approval and the licence may be subject to further modification, if such approval is not secured.”

RYANAIR would suggest that these options echo strongly those open to the CAA in committing to the targets for CP3. However, experience with RP1 has sadly shown that the prospect of the CAA modifying pre-committed decisions by the CAA, in the light of failure to find support for them from the European Commission, is more theoretical than real.

RYANAIR strongly urges that the CAA not embark on a possible re-run of the very disappointing mis-match of CP3 and RP1 targets and await knowledge of EU-wide targets for RP2, in order to set about meeting the required contribution to these. This is important to preclude the otherwise likely repeat of the 'justification' that premature commitment to an overlapping, insufficiently ambitious, national process precludes the adjustment required in the light of EU-wide targets for RP2.

Total Economic Value

RYANAIR is strongly opposed to any subjugation of performance against stretching cost-efficiency targets to the concept of claimed "total economic value". The concept of TEV is necessarily based on nebulous and unverifiable claimed benefits to the customer, for which the provider seeks credit – usually to mask failure to reduce cost base and realise in-house cost-efficiency improvements. The TEV value assigned is further notoriously speculative and materially affected by variables such as rising fuel costs, which can dramatically inflate claimed savings.

There is no evidence that NATS behaviour has increased economic value for users in terms of fuel savings or staff costs (para 6.6). RYANAIR has repeatedly requested information on claimed savings from NATS, however, NATS have failed to provide any supporting data on what fuel savings they are 'enabling' for RYANAIR.

Incentives

Under no circumstance should NATS be allowed a bonus for delivering a service that is already funded and already taken into account in the cost of capital allowance. Incentives via 'bonuses' present a greater risk of gaming, for example, users could be forced to reroute flights (leading to extra fuel burn) to ensure delay targets and associated bonuses are achieved.

NATS should, however, be penalised if they fail to achieve targets and these penalties passed back to users. For example, EU261 costs arising from ATC failure or strikes should be borne by the 3rd party that caused the failure and not from the airline. Where a 3rd party is responsible for delay, that qualifies passenger for compensation, the cost should be recoverable from the 3rd party responsible. However, a mechanism needs to be in place to ensure that the cost of compensation is not charged straight back to airlines.

RYANAIR
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