

Competition and Markets Authority
The Cabot
25 Cabot Square
London
E14 4QZ
United Kingdom

FAO: Kirstin Baker (Panel Inquiry Chair)
Susan Hankey (Panel member)
Paul Muysert (Panel member)
Lesley Moore (Project Director)

[RP3 reference CAA document 017]

25 February 2020

NATS (EN ROUTE) PLC
NOTICE OF VARIATION OF REFERENCE: DETERMINATION OF PRICE CONTROLS FOR
THE PERIOD 1 JANUARY 2020 TO 31 DECEMBER 2024

1. Under section 12 of the Transport Act 2000, we made a reference¹ to the CMA in respect of disputed licence conditions relating to the NATS (En Route) plc – NERL – price control for the period 2020 to 2024. In chapter 1, paragraph 1.4 of the accompanying document² (both documents together referred to as the “Reference”) we list five specific licence modifications we have asked the CMA to review, including a new licence condition 10a, which sets out the roles and responsibilities of NERL in respect of airspace modernisation.
2. Throughout our engagement with the CMA on this referral process, we have been clear that CAA and NERL have continued to work together to reach agreement on condition 10a, as there was broad agreement on the principle, but further work required on the detail. I can now report that we have reached agreement on the detail of condition 10a and that it is no longer in dispute.
3. The CAA hereby gives notice to the CMA, pursuant to section 12(2) of the Transport Act 2000, that the Reference is varied to exclude all matters relating to condition 10a (“Revised Reference”).

¹ RP3 reference CAA document 001 – 19 November 2019

² RP3 reference CAA document 002: Reference to the Competition and Markets Authority of the NERL RP3 price controls CAP 1857 – 19 November 2019

4. In response to Judith Ross's request for details of the revised condition 10a (email of 20 February 2020), I enclose copies of the revised condition and the accompanying guidance to NERL. The agreed position for NERL's roles and responsibilities in respect of designing a UK airspace masterplan, including the establishment and management of the Airspace Change Organising Group (ACOG), are set out in a revised condition 10a [SP16]. The guidance to NERL [SP17] provides the background to how we would assess NERL's compliance with condition 10a, how we would assess the impact of exogenous factors on NERL's ability to deliver the airspace masterplan, along with the funding arrangements and mechanisms. The revised condition 10a does not change any of the cost allowances provided for ACOG or the Opex Flexibility Fund, as part of our overall decisions on NERL determined costs for RP3.
5. I would be grateful if you could confirm receipt of this notice and that the scope of the Revised Reference is clear. Should you require further information, or wish to discuss this letter and its supporting papers, please do not hesitate to get in touch with me or Matt Claydon.

Signed for and on behalf of the Civil Aviation Authority



Paul Smith
Director, Consumers and Markets Group

Copy: Ian Elston – Deputy Director Aviation Policy, DfT
Thea Hutchinson – Head of Regulation, NERL
Matt Claydon – Head, ATM Regulation, CAA