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FAO Mr Stewart Carter, Programme Director NR23
Consumer and Markets
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Luton, March 28, 2024

easyJet's response to the Civil Aviation Authority (CAA) 's review of approach to setting price controls for NERL (CAP 2618)

Dear Mr Carter,

easyJet welcomes the opportunity to submit written comments on the CAA's review of the approach setting price controls for NERL, as set out in CAP 2681 ("Review"). We believe that it is crucial to ensure that both the process and the price controls set for NR28 are appropriate and robust; and that NERL's regulatory framework is effective and fit for purpose going forward.

NERL operates a monopoly in the provision of Air Traffic Services (ATS) where robust economic regulation is critical to ensure value and safety for travellers. However, we believe that the NR23 determination has been disproportionate in its outcomes, as evidenced by the considerable increase in prices and the poor service, particularly during 2023.

Our response suggests a number of improvements that we believe can be made to the current framework. This includes a more transparent and engaging customer engagement process, through the strengthening of the CAA's monitoring, data gathering and guidance powers; and a more proactive and detailed 'bottom up' approach to NERL's Business Plan (BP). All of the building blocks, including the RAB, WACC, cost-efficiencies, incentives and risk-sharing arrangements could be particular areas of focus in NR28, as they are key to ensure that the regulatory obligations on affordability, continuity and quality are all met. In our view, this can be achieved if the CAA has sufficient resources to carry out a thorough regulatory assessment.

We have set out below our specific comments to the CAA's Review related to NERL.

1 The process of setting price controls

1-1 Objectives

1-1.1 We note that the CAA has a duty to ensure that NERL delivers ATS in accordance with its licence obligations; and to guard consumers' interests, while promoting economy and operational efficiency on the part of NERL. This includes furthering the interests of operators regarding the availability, cost and quality of NERL's ATS.

1-1.2 Enhanced clarity in the regulatory strategy for NR28, with clear and proportionate principles and objectives would be of significant benefit before the next licence modification exercise. We would then expect NERL's BP to comply with this strategy.

1-1.3 In our view, the fundamental objectives of this strategy would be:

1. *Safety*: as per the CAA's primary statutory duty to always prioritise safety within ATSs.
2. *Sustainability*: encouraging NERL to take a more proactive environmental approach and ensure that it does not hinder the successful implementation of airspace modernisation.
3. *Affordability*: the BP submitted by NERL for NR28 is built in coherence with the principle of "affordability", as part of the CAA's statutory duties, including for example:
    - NERL having appropriate incentives for efficiency, while also protecting the quality of service,
    - a fairer recalibration of the risk-sharing mechanisms, in particular in cases of exceptional and external circumstances, and
    - the moderation in the evolution of overall unit costs, similar to what would be expected in competitive markets.
4. *Proportionality*: protecting consumer's interests via a sufficiently robust economic oversight by the CAA, to prevent market power abuses. This includes both appropriate resourcing, governance and regulatory tools to prevent airspace users and travellers suffering disproportionate costs in relation to the quality of NERL's ATS. NERL's future charges should represent real value for money.
5. *Accountability*: While NERL's costs projections should be based on efficient costs and incentives, appropriate quality of service must be ensured. This means clear accountability and incentives/penalties regarding service performance. NATS must be held accountable for service failings beyond the existing incentives regime.
6. *Continuity*: NERL's licence for NR28 should clearly safeguard the continuity of the service provided by NERL. That means that passengers should be sufficiently protected against system failures of a similar nature to the event of 28 August 2023.

1-2 Proportionate and Transparent Regulation

1-2.1 We believe the CAA should actively promote *affordability* of charges, *quality* and *continuity* of services in a manner similar to the competitive dynamics observed in open markets.

1-2.2 We do not believe that these were achieved in relation to NR23:

- The *affordability* principle is not reflected in a proposal to increase the unit rates double-digit in NR23. Considering the Traffic Risk Sharing (TRS) mechanism being one of the main drivers behind the increase, it cannot be right that the regulation allows for:
    - airlines fully absorbing losses of NERL – derived from external exceptional circumstances, and not business decisions from airlines.
    - the inclusion of such losses in the Regulated Asset Base (RAB) of NERL – thus allowing additional returns on these losses and even their indexation to inflation[1].

  We believe that a clear definition of affordability is critical for the NR28 consultation process.

1-2.3 The *continuity* (and *quality*) principle can be met only with a clear definition of accountability. This means that NERL should be fully responsible for poor and interrupted service under its control. This should include appropriate penalties and compensation schemes. An essential

[1] See more details in paragraphs 3-6, 3-8, 3-10.

facility such as NERL should not be able to increase its costs above what would be expected in a competitive market environment without taking financial responsibility for its poor services.

1-2.4 Integral to effective price control is the inclusion of an appropriate resourcing plan and suitable performance incentives.

1-2.5 Finally, specific elements of the BP need to be reviewed, such as RAB adjustments and financeability, WACC determination and TRS to ensure proportionate regulation in all market conditions.

1-3 Constructive Engagement

1-3.1 During NR23, six Customer Consultation Working Groups ("CCWGs") were held. We believe that there could have been greater transparency and optionality. The BP was presented by NERL with incomplete and fragmented information and no real opportunity for effective negotiation with airlines.

1-3.2 In our view, it is critical that future engagements enable stakeholders to test and influence NERL's BP via meaningful consultation, with airspace users able to reconciliate the data presented with previous regulatory periods and with parallel consultations – as it is the case for investments[2]. NERL should also be providing a range of scenarios for each building block and then reaching an agreement with stakeholders where possible.

1-3.3 We also believe it would be helpful as part of the process, for the CAA to actively facilitate constructive engagement between stakeholders to support effective negotiations, including earlier engagement in the NR28 process (to effectively audit data and provide guidance on the BP, particularly on efficient allowances)[3].

1-3.4 There would also be real benefits in stronger monitoring and enforcement activities during the process itself, with a clear and effective escalation process if disagreements arise between stakeholders.

1-3.5 We believe it would be helpful for the CAA to provide independent annual reports[4] to help stakeholders monitor how the BP evolves and is applied, with a focus on:

- Traffic benchmarks and evolution,
- CapEx plan[5] and its reconciliation with productivity and staffing requirements,
- quality benchmarks and evolution,
- unit costs benchmarks and evolution,
- OpEx development – i.e. retirement plans, staffing levels, NERL's plans to manage inflationary pressures,
- assessments of financial solidity and financeability – i.e. liquidity, debt and profitability assessments – see also paragraph 3-9.

1-3.6 Finally, it is important that there are clear and effective timelines on NERL, with enough time for stakeholders to review the materials of the BP.

[2] The consultation lasted several months and there is a risk that the data presented in some CCWG sessions have changed and/or are different to the ones presented in the SiPs – for example, this happened to DP-En-route and Common Platform projects.

[3] See paragraph 2-3 for more details.

[4] The European PRB provides annual monitoring reports to verify that the actual quality and costs provided are in line with the performance plans of ANSPs.

[5] The SiP consultations happen every 6 months, but we believe that the CAA should be more active in monitoring the investments' plans.

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1-4 Timetable

1-4.1 We believe constructive engagement on NR28 with stakeholders should begin as early as possible. We are concerned that the CAA is already factoring in a delay of 1 year for NR28 process, given H8. We do not believe that NERL requires 10-12 months to produce its Initial BP, while the customer engagement phase is expected to last only 3-6 months. Parallel consultations, such as H8, should not prevent a timely process for NR28.

1-4.2 There is work that can begin now, for example, technical forums and working groups (e.g. on the WACC) which can be held before the BP is submitted to users.

1-4.3 We believe that the CAA enhancing the clarity of its regulatory strategy before the start of NR28 would also speed up the process itself (as well as making it easier to properly review NERL's BP).

2 Governance around price controls

2-1 Management of the Process

2-1.1 We believe that the CAA should establish a credible timetable and ensure that NERL meets fixed deadlines, making effective use of its data gathering powers to avoid undue delays and applying financial penalties for incomplete and/or late information.

2-1.2 We welcome the use of the timely involvement of external and independent consultants where necessary, but we believe that the CAA must also have its own adequate internal resources. In our view, it is crucial for a regulator to retain knowledge and skillsets to be able to consistently provide an effective level of economic oversight.

2-1.3 Any changes in the economic landscape should also be reflected in the BP proposal (for example, traffic and inflation forecasts).

2-2 Engagement and Taking Account of Stakeholder's Views

2-2.1 While the CAA has provided an extensive range of information to stakeholders in its Decisions, our experience has been that the data can be difficult to unify and reconcile[6].

2-2.2 One possible solution to aid this reconciliation process could be the employment of *Excel* tables, to organise data into a more coherent and easily understandable format [7]. This would significantly simplify the task of drawing correlations and conclusions.

2-2.3 We believe that there also needs to be greater clarity and transparency regarding how the views of stakeholders are incorporated into the CAA's decision-making process. For example, it would have been beneficial for constructive feedback to be provided by the CAA around the WACC (both for a clearer understanding but also potentially improve the estimation of the WACC).

[6] For example, how (i) the unit rates are calculated and constructed starting from the determined costs, (ii) the risk-sharing mechanisms (such as the TRS Debtor) are highlighted in the reporting, and; (iii) the unit rates presented differ from CRCO reporting tables from Eurocontrol, making it difficult for airlines to benchmark.

[7] The format of European reporting tables is a good example of sufficient information to reconciliate and compare with other ANSPs.

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2-3 Guidance and Information Gathering

2-3.1 We believe that it would be beneficial to all stakeholders if the CAA were to provide clear principles and guidelines ahead of the creation of a BP by NERL – see also paragraph 3-3. This early guidance would serve to shape the planning process and ensure alignment with CAA's expectations and standards.

2-3.2 Additionally, this process should involve the use of consultants in its initial stages, offering external expertise and providing valuable insights to inform the development of the plan.

2-3.3 We also believe that NERL should be liable for financial penalties in cases where the quality of provided information falls short of expectations, or where prescribed deadlines are not met. This underscores the need for appropriate sanctions that serve to encourage proper adherence to set guidelines and deadlines.

3 Approach to key price control issues and building blocks

3-1 Passenger Forecasts

3-1.1 We support the use of the independent sources of forecasts, such as the one offered by STATFOR. In the context of great uncertainty as demand recovers after COVID-19, STATFOR has an established track record for accuracy.

3-1.2 However, we also believe that intelligence from airlines could further help in assessing local variations, as their scheduling plans in the UK provide the most informative data for forecasting and planning. The reference offered by STATFOR should not hinder the possibility for airlines to propose justified variations to it.

3-1.3 Moreover, NERL will always need to ensure appropriate levels of resourcing in light of a higher expected traffic than the one proposed.

3-1.4 The adopted volumes' forecast will have consequences both on the pricing, the operational resourcing and the performance targets. Particular attention should be given to how the traffic levels affect OpEx and staff requirements, factoring in the expected benefits of a free-route airspace, mainly coming from a decrease in radio transmissions, monitoring and coordination tasks.

3-2 Service Quality

3-2.1 In our view, it is critical to ensure that the implemented targets are meeting their intended outcomes, with increased continuous oversight and monitoring activity by the CAA.

3-2.2 Current capacity targets largely focus on delays; however, considering the principle of continuity, these targets should also factor in flight cancellations. This would promote the uninterrupted provision of service and ensure consumer interests are protected.

3-2.3 NATS' performance targets and regulation arrangements are not designed to anticipate or address large scale failures[8], which result in increased costs for airports and airlines and huge disruption to passengers. In the event that such a failure does occur, NERL must take accountability.

[8] We refer to the incident of the 28th of August 2023.

3-2.4 Moreover, as the industry's impact on the environment is a growing concern, it is important that the environmental Key Performance Indicator (KPI), the 3Di measure, is updated before the commencement of NR28.

3-2.5 The targets established should be ambitious, driving significant improvements particularly in critical areas such as environmental objectives.

3-2.6 We believe that it would be beneficial to all stakeholders if the CAA is proactively involved throughout the entire process of target setting, through implementation, to monitoring and evaluation. It would also be helpful if the CAA set an efficient cost allowance and service levels and provide unbiased advice to help set targets that are challenging enough to drive improvement (while still being aligned with the capabilities and resources of NERL).

3-2.7 Service quality measures should be calibrated to match the level of OpEx, CapEx plans, expected benefits, traffic, and other key factors. All these elements would benefit from detailed assessment by the CAA to ensure that service quality measures accurately reflect organisational realities and drive meaningful improvements.

3-3 Cost Assessment

3-3.1 We believe that there should be a focus on integrating efficient operational expenses into price controls and encouraging NERL to incrementally improve its efficiency. This is needed to replicate the outcomes of a competitive market environment.

3-3.2 During the NR23 consultation, the CAA's methodology used the BP of NERL as the starting point to assess the allowed costs for the regulatory period, inflating the 2022 baseline. However, we do not believe that the assessment of NERL's efficient costs should be restricted to just the initial BP.

3-3.3 During NR23's determination, the CapEx and OpEx would have significantly benefited from an earlier and more comprehensive examination. There was limited transparency from NERL on its CapEx plans, with revisions taking place and different messages being delivered to stakeholders in different forums. Similar issues arose in OpEx investigations by NERA and Steer, leading to inconclusive assessments of pay growth.

3-3.4 For the NR28 determination, we believe that the CAA should adopt a bottom-up investigation of OpEx and CapEx. This would be strengthened by clear objectives and regulatory strategy for the regulatory period, recognising key OpEx growth drivers early on, leveraging on its data gathering powers, involving external advice as soon as possible, and not relying on NERL's BP as the starting point for its analysis.

3-3.5 We believe it would be helpful for the CAA to set up cost allowances that reflect an efficient market operator within a competitive landscape. This anticipates that NERL will have the capability to minimise the impacts of inflation, preventing the complete pass-through of any CPI increase to its cost base. NERL should have appropriate incentives to enhance its efficiency throughout NR23.

3-3.6 NERL's costs should not be linked to CPI inflation when looking over the whole regulatory period. A significant proportion of costs do not move at the same rate of CPI's forecast, including staff costs, which are not linked to inflation indexation by contract, and pension costs, together representing more the vast majority of NERL's OpEx.

3-3.7 We also believe that there should be a consistent and ongoing annual review of NERL's cost base.

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3-4 OpEx and CapEx Incentives

3-4.1 We maintain a favourable position towards the concept of the CapEx Engagement Incentive. As it was implemented in 2021, it would be useful to understand how effective it has been in meeting the objectives of "timeliness" (delivering results efficiently and promptly), and "user-focus", (prioritising the needs and interests of airspace users).

3-5 Contributing to the UK Aviation Sector Reaching Net Zero

3-5.1 During NR23 we pushed back on NERL planning for a 4.4% CO2 reduction by 2035, achieved by optimising flight paths to reduce airlines' fuel burn and CO2 and delivering airspace modernisation.

3-5.2 We believe that transition to greener flying could be accelerated with more aggressive targets, in line with the expectations of other actors of the industry. easyJet, UK Sustainable Aviation and Single European Sky (SES) targets all point to a 10% reduction in CO2 emissions by 2035 as achievable. This can be driven by an update in the 3Di environmental KPI for incentives.

3-5.3 The modernisation of UK airspace is of significant importance to enhance operational efficiency, create a more robust network, and bring forth environmental benefits. In the process of modernising airspace, it is crucial that NERL successfully fulfils its obligations. NERL should act as a facilitator, not a hindrance, to the modernisation process, thereby ensuring smooth and successful transformation.

3-5.4 It is finally of utmost significance that the Single Design Entity, which is integral to this effort, along with its governance and sources of funding, are all finalised. Success in these areas would pave the way for further progression of the airspace modernisation programme.

3-6 Inflation Indexation

3-6.1 We do not agree with an indiscriminate indexing of the RAB to inflation. Unusually high inflationary periods might result in windfall profits for NERL, which ultimately leads to excessive returns – see also paragraph 3-10.3.

3-6.2 In general, we do not believe that an indexation should be applied to the RAB. The additional real capital loss that NERL would incur through the presence of inflation forces in the economy is also part of the business risk which is reflected in the WACC.

3-6.3 In the context of the index used to inflate the RAB, we think that CPI is more appropriate and relevant than RPI. The latter represents an outdated indexation that will be withdrawn by 2030 from national statistics in favour of CPIH.

3-6.4 In order to limit availability heuristics and other biases in the forecasting of inflation, we believe that a notional value should be adopted. This would also limit the possibility of unjustified windfall profits through unusual levels of inflation[9].

3-6.5 While we do not agree with the inclusion of the TRS Debtor into NERL's RAB – see paragraph 3-8 – we also disagree with its indexation. There is a real risk of NERL incurring excessive

[9] We find more useful to assume a notional inflation rate between 2% (which represents UK Central Bank's inflation target) as the most realistic and reliable prediction of where the inflation rate will likely be in the future. That limits the possibility to account for windfall inflation, which leads to instability of pricing and does not avoid the compounding effect on the RAB that leads to excessive profits.

profits, even from what is factually a loss. For instance, if it the TRS Debtor were to be treated as a liability (if NERL have chosen to finance it through the debt market) instead of an asset included in the RAB, no inflation adjustment is likely to have been applied in that case.

3-7 Cost of Capital

3-7.1 We do not believe that the WACC methodology used by the CAA for NR23 should be retained in NR28. We would like the CAA to engage with stakeholders to review the methodology in technical forums ahead of the production of the NR28 Initial BP.

3-7.2 In particular, we believe that the business risk reflected in the beta of NERL's WACC is overestimated. This is for three main reasons: (i) the comparable group is poorly suited to explain NERL's risk profile, (ii) the existence of a settlement mechanism is not appropriately reflected into the WACC; and (iii) the inclusion of historical stock returns from the COVID-19 pandemic period contains information on investor's risk aversion, which have since changed.

i. We have concerns with the inclusion of ENAV and four European airports (AdP, AENA, Fraport and Zurich Airport) as the main comparators for NERL's WACC estimation.
   a. In order to increase the statistical significance of the estimate, it should include the highest possible number of comparators. For example, as mentioned in the report from Oxera from October 2021, Copenhagen and Wien Airports, and other non-aviation comparators, such as the National Grid ESO or SONI, should be included in the set of comparators for NERL's WACC.
   b. In order to take into account the different risk profiles of comparators, the beta estimates should be weighted with a detailed methodology of qualitative/quantitative analysis (for example, according to size, business mix, regulation, market liquidity, differentiation of activities and geographies)[10]. ENAV's beta estimates have low statistical reliability given its low trading liquidity and should at the very least be taken into consideration in its weighting. Also, airports tend to have less revenue protection than ANSPs and a different risk profile related to their international investments outside of Europe.

ii. NERL should not be permitted to (a) recover entirely its revenues losses via TRS even in exceptional circumstances, (b) allow for an additional return on these losses via their inclusion in the RAB and their indexation and then (c) not account for that in the WACC estimation. This results in excessive allowed returns for NERL.
   NERL provides a public interest service with the power to increase unit rates above prices that would exist in a competitive market. NERL currently also has the right under regulation to be compensated for any revenue losses by applying for an increase in unit rates as per the TRS mechanism. If NERL's TRS possibilities are interpreted so broadly that the settlement would also take place in exceptional circumstances, then NERL effectively has no "traffic risk" at all.

iii. Observed betas during the outbreak of the pandemic are not informative for NERL's risk profile going forward. In fact, during 2020-21 COVID-19 pandemic market actors may have been considerably uncertain as to whether and how regulators and governments would react to such catastrophic events[11]. The investor's risk aversion is likely to have changed now that most governments and regulators took measures to mitigate the

[10] This is proposed by Swiss Economics for Dublin Airport in its 2022 determination.
[11] The last event with comparable effects on the airline industry has been 9/11.

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impact on national essential infrastructures. Investors now expect that similar measures will be adopted again to mitigate financial risks in case of another catastrophic event, softening the volatility in stock prices. For this reason, we believe that the CAA should exclude COVID years from the estimation of the beta. This approach is consistent with European regulatory precedents[12].

3-7.3 We also have concerns with the equity risk premium measure applied, derived from long run historical averages. The historical-based approach for estimating the equity risk premium is highly dependent on arbitrary choices such as how far back in time the equity risk premium is averaged, the risk-free rate applied; and whether geometric or arithmetic averages are used. It therefore generates inaccurate estimates, with a huge range in premiums, depending upon the choices made. At the same time, the fundamental assumptions for a historical-based estimation are generally wrong:

- It is difficult to prove that the investors' risk aversion and/or that the perceived risk of equity as a class does not change over time.
- Analysts are free to select any risk premium they feel best reflects their biases and claim it to be a historical risk premium.
- Even with long time periods of history, such estimated risk premium will have substantial errors.

3-7.4 For the reasons expressed above, we believe that Prof. Aswath Damodaran[13]'s methodology to estimate the implied premium, which specifically aims at overcoming the above limitations of historical-based approaches, should be adopted. The current mature equity market risk premium for the US is used as a benchmark and a country risk premium component derived from Moody's sovereign credit ratings is added to it[14].

3-8 RAB and Depreciation

3-8.1 We firmly oppose the idea of NERL generating extra income from the revenue deficits from 2020-22 through the WACC, with the belief that such recouped amounts would be subject to inflation adjustments, akin to how the CapEx is handled in the RAB. The TRS Debtor, essentially representing a "loss", should not transform into an additional inflation-adjusted earning for NERL. Treating revenue losses as an investment or an asset, which yields an annual return on the yet-to-be depreciated part of the sum left in the RAB, is inappropriate. The RAB, in our view, should only reflect the invested capital's value for regulatory purposes. If funded via state grants or loans, the revenue losses would consequently pose a liability rather than an asset.

3-8.2 Frequent and imbalanced adjustments to the RAB in favour of NERL risks excessive profitability. The RAB should reflect efficient costs and capital investments that drive value for its services and do not result in disproportionate charging.

3-9 Package of Incentives and Risk Sharing Arrangements

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[12] This is proposed by Swiss Economics for Dublin Airport in its 2022 determination.

[13] Aswath Damodaran is Professor of Finance at New York University Stern School of Business where he teaches corporate finance and equity valuation. He is widely quoted on the subject of valuation as the main expert in the field.

[14] Data are continuously updated by Prof. Damodaran at:
https://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/ctryprem.html

3-9.1 The TRS mechanism as currently defined seems to distribute traffic risk inequitably, as it is deemed applicable even under extraordinary conditions. This unfair distribution stems from the consideration that a downturn in traffic is naturally a more likely "extreme" scenario than a correspondingly substantial surge in traffic. The TRS mechanism needs to be re-evaluated by NR28, with a focus on affordability. It currently lacks balance, with an unjustified burden on airlines.

3-9.2 The TRS mechanism also needs to be future proof in the event of another catastrophic event that has a similar impact on traffic such as COVID-19. The TRS mechanism, in its current form, may significantly impact passengers. Sudden cost increases arising from the TRS mechanism results in airlines having to deal with deteriorating operations and low traffic. As a consequence it would be reasonable to assume that charges might keep on increasing year after years also beyond the TRS mechanism. That will depress volumes down for longer, with rates increasing as a consequence, which cannot be the intended consequences of the regulatory framework.

3-9.3 Any future TRS mechanism should be robust enough to withstand severe disruptions, and flexible enough to adapt to changes in the operating environment.

3-9.4 Finally, the benefits derived from optimising costs through a shared cost-risk arrangement should be fairly split between airlines and NERL. This equal division of gains is important to avoid creating imbalances in the system. The underlying concern is that NERL may be subtly encouraged to over-estimate its cost allowances in an effort to retain efficiencies. By ensuring a more equal distribution of cost efficiency gains, these potential distortions can be minimised and a more balanced system created. The scheme should promote cost efficiency, uphold a high-quality service, and strike a balanced risk allocation, while avoiding unwanted distortions.

3-10 Financeability

3-10.1 The CAA's methodology to assess NERL's financeability involves calculating credit metrics using the same methodology as the credit rating agencies. We have some concerns with this approach as it assumes that NERL's profitability should be aligned to companies with a similar credit-risk profile. We believe that this could raise issues for two reasons:

1. The current approach involves calculating credit metrics with an emphasis on a company's risk of default. However, applying this methodology to NERL seems redundant, primarily because NERL's risk of default isn't a crucial concern due to its monopoly status, its ownership and its essential infrastructure nature.
2. NERL, as a monopoly, should not be able to generate excessive profits. We would encourage the CAA to assess NERL's profitability in light of the possibility it might be earning too much given its monopoly position.

3-10.2 For these reasons, we would ask the CAA to examine past price controls to assess NERL's financeability. For example, an evaluation based on actual and a comparison of Return on Capital Employed (ROCE) and the WACC levels would provide a more accurate and relevant measure of NERL's financeability.

3-10.3 We also have concerns that the CAA's existing strategy of rolling forward the RAB through indexation and regulatory depreciation, along with making adjustments to the RAB such as the TRS debtor, may signal excessive returns – see paragraph 3-6. A clear indication of this is the potential for the RAB to double in 15 years at the current inflation rates (between 4-5%) in a compounded way.

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3-10.4 In view of the above, we believe that it would be beneficial a more regular and detailed scrutiny to assess NERL's financeability.

4 Broader Strategic Issues

4-1 Form of Controls

4-1.1 We note that the CAA does not plan to change the overall framework for NR28 of setting price controls based on a single-till RAB framework for a period of 5 years.

4-1.2 However, we do not believe that the current regulatory framework delivers the desired impact for NERL's customers or to passengers in terms of prices and service quality. Some of the current arrangements (such as the TRS) do not address the regulatory obligations regarding affordability, for the reasons explained above.

4-1.3 NERL might be earning excessive returns without sufficient accountability to deliver value for money for its services.

4-2 Airspace Modernisation and New Users

4-2.1 During the NR23 period, NERL anticipated the emergence of new users in the UK airspace, particularly those operating advanced air mobility, such as eVTOLs. The costs incurred by NERL in managing these new users should, in principle, should be borne by them.

4-2.2 NERL has a responsibility to ensure that the dedicated charging arrangements are fair and efficient (and these should be designed and monitored by the CAA).

We thank the CAA for the opportunity to comment on the Review and remain at your disposal for further detailed engagement on both the broader strategic issues and technical discussions related to specific building blocks.

Sincerely,

Francesco Rado

Manager of Air Navigation and Airports Regulation

easyJet Airline Company Ltd.