

31st January 2014

Dear Colleague

Heathrow Airport Limited – Conditions of Use from 1 April 2014

Introduction

I would like to thank you for your participation in the 2014 Heathrow Airport Conditions of Use (COU) Consultation process. The 2014 COU Consultation process began on the 31st October 2013. Heathrow Airport Limited (HAL) held a formal consultation meeting on 21st November 2013 and also received seven formal written responses to its proposal. This letter announces HAL's decision, rationale for its decision and how airline community responses have been taken into account in making our final decision.

Decision

We have carefully considered all airline and airline representative body responses on our change proposals, which include all the comments expressed at the consultation meeting and written responses. In addition, all received feedback has been treated with a separate reply from HAL to directly respond to the individual concerns of that representative. The final COU 2014 can be found attached to this letter, in addition to the "red line" version, illustrating any changes between this upcoming year and the previous.

Heathrow Airport Responses to Airline questions

I would now like to respond to each of the main themes from the airline community responses to our price proposals and how HAL has considered these comments in coming to our final decision:

(1) Airline Question: The COU is not an appropriate mechanism for determining the acceptance of the Conditions of Use.

HAL Response: The COU is a unilateral contract and an offeree accepts the terms of the contract by performing an act which indicates their agreement to the bargain, in this case using Heathrow airport is the act which airlines perform to indicate acceptance of the COU. Heathrow airport is only available for use on the terms set out in the COU and it is not possible for an airline to use the airport on any other terms.

(2) Airline Question: The approach taken by HAL regarding the extent to which it seeks to limit its liability, through the COU, for direct or indirect losses incurred by the airlines consequent to the actions or omissions of HAL is unacceptable.

HAL Response: The liability and insurance condition is consistent with other conditions of use in the sector and its principles have been endorsed by the UK courts. HAL believes that this clause is fair, reasonable and necessary.

(3) Airline Question: The proposed Rules of Conduct Objects as drafted, subjects airlines to obligations that we don't believe have been consulted upon fully yet and airlines cannot be expected to accept such open-ended liability. The AOC also notes that it has previously been agreed by HAL that the Airline Passenger Welfare Protocol is not a part of the Conditions of Use but is referred to in the Conditions of Use. Also, the level of obligation proposed in paragraph 7.8 is unacceptable. The airport obligations should also be noted.

HAL Response: Condition 5.1(j) [it appears as 5.1(v) in the redline draft] has been introduced to comply with our new obligations set by the CAA in the new Civil Aviation Act 2012 Licence around compulsory rules of conduct.

The only rules of conduct that will be applicable initially are the existing passenger welfare rules set out in Schedule 8 of the current COU. These have been consulted upon extensively through the Q6 regulatory process. The originally proposed changes in respect the rules of conduct have been amended following consultation with the AOC to reflect the concerns raised in respect of the intended condition coverage and the associated rule consultation process.

Condition 7.8 applies independently of clause 5.2 in order to protect the position of airlines that provide welfare to their passengers without recourse to airport resources. Clause 5.2 refers to the expectation that airlines will meet their obligations under the Welfare Protocol with best endeavours. Clause 7.8 continues that irrespective of best endeavours, if the Airport needs to step in and incur costs on behalf of the airline, the Airport can seek compensation for this expense. In other words, there are no changes to the current processes that have been developed collaboratively between the Airport and Airlines, only the wording has changed to reflect those set in the new Civil Aviation Act 2012.

The Airport Passenger Welfare Protocol will be readily available through the TW6.info, airline community website. Governance and management of the process is led by the HAL Passenger Welfare team where the appropriate levels of escalation and communication will continue to be discussed in collaboration with the airline community.

(4) Airline Question: Is the provision of Noise Certificates for the purposes of Airport Noise Preferential Routes necessary, as this information is already collected by the airport via other means.

HAL Response: HAL will remove this proposal as this information is already collected and stored by the Heathrow Business Support Centre via the 'All Up Weight Return' process annually.

(5) Airline Question: Airline booking data requirements should be aspirational and not part of the conditions for using the airport. Indeed, airlines have different capabilities for being able to provide this data.

HAL Response: HAL will remove this proposal from the data requirements and work with the AOC to establish other methods to encourage the results that HAL are looking to accomplish.

(6) Airline Question: Any COU requirement applied solely to a 'sub-set' of T2 carriers would seem discriminatory. This is purely an aspiration of the T2 Team and should not form part of a formal COU to operate into the aerodrome.


HAL Response: HAL will remove this proposal from the data requirements and work with the Airline Community to establish other methods to encourage the results that HAL are looking to accomplish.

Heathrow has today commenced its consultation to set 2014 airport charges that are intended to be effective from 1 July 2014. Therefore the outcome of the 2014 airport charges consultation is likely to result in amendments to Schedule 5 of the 2014 Conditions of Use. The 2014 airport charges consultation is scheduled to conclude on 25 April 2014 and at this point we will issue a revised Schedule 5 to give effect to the charging decision.

Details of the 2014 airport charges consultation can be found at: www.heathrowairport.com/cou.

Finally, I would like to thank you again for your participation in this consultation process and I value your feedback throughout this process. Heathrow recognises the need to have a set of terms that reflects the needs of our operation and remains committed to working with the airline community and all other airport stakeholders to make Heathrow "Europe's hub of choice and UK's direct connection to the world by making every journey better".

Yours sincerely



Chris Butler
Airline Business Development Director

Appendix: List of Proposed Changes - Status

Using our Facilities and Services			
Condition 4.7	Reciprocal confidentiality arrangements	HAL Proposal has been included	√
Conditions 5.1(j), 5.9, 17.1, Sc. 8	Compliance with CAA Act 2012	HAL Proposals have been included, with revisions as per airline requests.	√ At airline request
Condition 5.1(k)	Industry codes of practice	HAL Proposal has been included	√
Condition 5.9	Groundhandling licences	HAL Proposal has been included	√
Condition 5.10	Noise Preferential Routes (information requirement)	HAL Proposal has been removed as per airline requests	X
Condition 5.11	RNAV1	HAL Proposal has been included	√
Condition 5.14	Advanced warning of IT changes	HAL Proposal has been included	√
Common Facilities			
Condition 6.3	Positive boarding programme	HAL Proposal has been included	√
Condition 11.2	Moving aircraft	HAL Proposal has been included	√
Meaning of Words and Interpretation			
Definition	Airport	HAL Proposal has been included	√
Definition	MTOW	HAL has clarified proposal as per airline requests	At airline request
Schedules			
Sc.1, 1.2	Advance booking data	HAL Proposal has been removed as per airline requests	X
Sc.1, 3	T2 specific data	HAL Proposal has been removed as per airline requests	X
Sc.5, 3.4	Parking charge systems	HAL Proposal has been removed as per airline requests	X