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### **The Airport Operators Association response to ‘Applying spectrum pricing to the Aeronautical sector: A second consultation’**

This is the response of the Airport Operators Association to ‘*Applying spectrum pricing to the Aeronautical sector: A second consultation*’. We welcome the opportunity to respond to this consultation however, we strongly oppose all proposals put forward by Ofcom in this consultation.

The Airport Operators Association (AOA) is the trade association that represents the interests of British airports. Our membership comprises 68 airport companies, representing all of the nation's international hub and major regional airports in addition to many serving community, business and general aviation.

In 2009, AOA member airports handled more than 220million passengers, over 2 million tonnes of freight and over 2.2 million air transport movements. In 2007 aviation contributed £18.4billion towards UK GDP, £7.8 billion in tax revenues to the Exchequer and provided direct and indirect employment for some 234,000 people.

The views expressed are the product of consultation within the AOA’s membership, and have been approved by the Association’s Board. However, whilst we have tried to encompass the views of all our members there may be questions where our responses differ; in which case, nothing in this response prejudices those of our individual members.

We welcome Ofcom’s abandonment of its proposals to apply AIP to nav aids, however we remain opposed to the principle of applying spectrum pricing to the use of aeronautical VHF spectrum. Users simply cannot give up their obligations to use certain frequencies and a ‘price signal’ will not affect this.

#### **Key Points**

- AOA and its members strongly oppose the proposals put forward in this consultation.
- Aviation spectrum is mandated internationally to ensure the safety of aircraft. These proposals would have a detrimental effect on the safety of UK aviation.

- The basis of the proposals is flawed. Any spectrum released by AIP will be handed back to the EU aviation pool.
- The proposals do not align with the Government's principles of Better Regulation.
- The cost of the proposals will disproportionately impact on smaller airports who will be unable to pass this cost through due to long term contracts with airlines.

### **International obligations**

The radio spectrum that is used by aviation is allocated internationally at the ITU World Radiocommunication Conferences and these Final Acts have treaty status. These international agreements exist because of the need to ensure safety in the use of air traffic control and navigation and communication systems. The rules are designed to prevent this spectrum being reused by other sectors without international agreement.

On this basis, our understanding is that, AIP will not deliver any efficiency savings because any frequencies, that are so released will be returned to the overall European aviation pool. The CAA would not agree to the release of any frequencies for non-aviation purposes in the UK as this would be contrary to the UK's international obligations and the need to protect its European neighbours from interference, even if a frequency was not used in the UK. In the south and east, the frequency use is heavily constrained by the need to honour and respect international obligations and processes

In the original work done by Professor Martin Cave on the subject, AIP was based on opportunity cost - i.e. the value of the spectrum to other users. Therefore, even if AIP resulted in the release of a frequency, it does not remain in the UK necessarily but is released into the European pool for the benefit of aviation generally. Therefore the proposals bring no additional benefit or value to any other user or sector of the economy.

### **Impacts of Safety**

The consultation claims that the proposals would not have a negative effect on safety however, as highlighted in previous correspondence with Ofcom, AOA and other industry colleagues believe this to be incorrect, especially at aerodromes catering for General Aviation (GA) and recreational flying.

Introducing an elective cost on the use of VHF, some GA flyers will forego VHF systems, and fly from unlicensed aerodromes which are not subject the CAA's rigorous licensing criteria. This in itself would represent a material detriment to safety.

The introduction of AIP at unlicensed airfields operating in Class G airspace might give up air-to-ground frequencies to save money for themselves and their aircraft operators. This would result in such airfields becoming less safe in their operation; but not necessarily resulting in them becoming unsafe to such a degree where regulatory intervention by the CAA was warranted.

### **Principles of Better Regulation**

Ofcom does not believe the proposals have a detrimental effect on safety however, state if this were the case, the CAA has sufficient powers to increase safety regulation to negate additional risks. This would raise questions about whether the proposals for AIP align with the Government's principles of Better Regulation as it would require action by another regulator when no action would have

otherwise been required. Any action by the CAA would also bring further costs and increase the burden faced by the industry.

Ofcom admits that short – medium term benefits from the introduction of AIP will be ‘at the margins’ and only focus on some uses of VHF. This suggests that any actual benefit will be illusory. In the longer term Ofcom believes that AIP will lead spectrum users to reconsider their use of VHF and press for strategic changes in the way aeronautical spectrum is managed. However, any strategic review of the use of aviation spectrum will entail multilateral negotiations under ICAO and given that Ofcom is the UK spectrum management authority, this seems somewhat circular.

### **Cost**

Ofcom’s view that the cost of ‘10p per passenger for AIP is negligible’ shows little understanding of the aviation industry. This figure represents a significant amount to all airports, disproportionately so for smaller airports. AOA members have highlighted that these proposals, in year 5, could cost close to £60,000 per annum.

Airports and airlines are involved in long term contracts. AOA members have highlighted that they would not be able to pass this cost through and that they would not be able to reduce their usage. This would impact the competitiveness of UK aviation with its European counterparts.

Costs would also be incurred by some airports who undertake ground handling. Ground handlers require frequencies to communicate with aircraft. Their ability to pass on costs to airlines would be limited. The only alternative to this, for smaller FBOs, would be to rely on Air Traffic Control, although this is not part of its role.

AOA remains opposed to the imposition of any new costs during a difficult time for the industry, especially when the benefits of such proposals are not clear. Adding a price mechanism is unlikely to result in any behavioural change that would enhance efficiency.

### **Congestion**

The consultation relies on ‘congestion’ in existing use as a rationale for introducing AIP. Ofcom has not clarified how congestion is defined or measured.

Whilst there is little spare capacity in the relevant frequencies, we understand that there are currently no outstanding frequency requests either. This points to an already efficient management of the system.

Aeronautical spectrum is certified and harmonized for the purposes of ensuring that there is adequate protection from interference to ensure safety and regularity of flight. Other users of spectrum do not require or have this level of integrity, therefore it seems illogical to introduce non aviation users to this spectrum. This is a cogent and overriding reason why aviation spectrum should be treated differently from other elements of the ‘market’ for spectrum as is the case in the Netherlands and United States of America.

### **Alternative Mechanisms**

The industry is currently involved in the gradual conversion of aviation spectrum usage onto 8.33 kHz channels, a practical manifestation of how increased efficiency of aviation spectrum usage is already being achieved without the use of a price mechanism.

The 8.33 kHz conversion, coupled with the continuing drive for best practice in spectrum and frequency management across Europe, demonstrates that aviation takes the issue of efficiency very seriously and is embarking on measures such as SESAR, and NextGen which are far more likely to deliver benefits than AIP.

### **Impact Assessment**

The Impact Assessment admits that the efficiencies that could arise out of AIP cannot be predicted, although this is the reason for using impact assessments is to establish beyond doubt the rationale for proceeding with the action proposed. Ofcom has not identified what is not efficient about the current system – beyond an academic economist's argument that absent some form of price mechanism it must be inefficient. Nor has any argument been put forward to demonstrate what benefits are being denied to the UK by the current international arrangements for use of UK aviation.

## Appendix: Survey of AOA Members

Airport	Manchester	Bournemouth	East Midlands	Humberside	Newquay	Manchester Barton	Leeds Bradford	London Gatwick	Exeter	Southend	
Do you support AOA's continued opposition to the principle of AIP?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
What is the estimated AIP cost for your airport? (£s)	9,100 - 59,900	5,300 - 34,900	5,300 - 34,900	4,900 - 32,300	27,920 (Yr5)		2,600	5,200 - 32,650	15,800 (Yr5)	37,500 (Yr 5)	42,550 (Yr 5)
What was your operating profit in 2008/9 and what does the AIP cost represent as a percentage of your profits?		0.2% of MAG profits in Yr 5 of AIP			No profit	No profit	No profit		No Profit		
What does this cost represent on a per passenger basis?		£0.006 per passenger (MAG)			£0.08	N/A, however would require a 2% increase in landing charges		£0.01	£0.10 per passenger	£10.77	
Do your current commercial arrangements preclude the possibility of passing these new costs on to airlines?	Yes	Yes	Yes	Yes	Yes	No	Yes		Yes	Yes	
Do you consider VHF spectrum to be congested?	No. The UK can only be as congested as they claim if (1) low strength transmitters are assumed to have wide geographical coverage, OR (2) the level of potential non aviation demand for this spectrum is also factored in.				No, not in the far SW	N/A	No.		N/A	To a degree	

Can you / will you reduce your use of VHF spectrum in response to a price signal from AIP?

The answer to this is a probable 'no'. The cost isn't enough to persuade us to give something up that we use. We use all that we need to deliver the necessary capacity, although we do have the spare one for contingency. If the costs were prohibitive, we could consider dropping ATIS, but it would not be popular with users, and one might argue a case that as a result, safety or capacity might be slightly less as a result.

No, but we may be forced to relinquish a radar approach frequency, considerably adding to R/T congestion and reducing safety margins accordingly.

For our level of operations, we require the minimum of an AFIS, therefore we will have no option to avoid this cost which would be forced upon us.

No.

OFCOM do not seem to grasp the concept that international regulation of the section is sufficient and that it is unlikely that fees will drive efficiency in the use of VHF channels as the number of channels is dictated by the operational requirement; this happens to be the minimum at Exeter, furthermore any reduction of frequencies that could be perceived as non mandatory ie ATIS would impact on flight safety

There is no operational flexibility to do this without significantly affecting ATC safety services. It is possible that in Class G that services may be downgraded, but this would be a deeply unpopular and retrograde step for aviation safety.