



Direct Line: +44 (0) 1292 511029
Switchboard: +44 (0) 870 223 0700
Facsimile: +44 (0) 1292 511010
Email: amackenzie@infratilairports.com

Michael Richardson
Administered Incentive Pricing Consultation
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

By email: bespokefees@ofcom.org.uk

2 May 2011

Dear Michael

Infratil Airports Europe response to Ofcom consultation on bespoke licence fees for aeronautical VHF communications frequencies

Thank you for the extension to allow us to respond to this consultation.

Infratil Airports Europe Limited (IAEL) is the air navigation service provider (ANSP) and owner of Glasgow Prestwick and Manston (Kent International) Airports. We have responded to the two previous consultations on this topic, in October 2008 and April 2009.

Further to our specific comments below, we support the proposal for bespoke fees for certain aeronautical VHF communications frequencies. We believe that it is equitable that there should be costs savings associated with local services that are not intended for full UK broadcast: the bespoke fee process does attempt to address this.

General comments on Ofcom's position with regard to the aeronautical sector

We recognise that there appears to be no further option to challenge the principle of Ofcom's decision to imposed administered incentive pricing with regards to aeronautical VHF frequencies. We cannot, however, respond to this bespoke fees consultation without noting our disappointment that Ofcom, in its 14 December 2010 statement for aeronautical radio licences, has not accepted the arguments put by the aviation industry against the application of administered incentive pricing to, in particular, aeronautical VHF communications frequencies.

While Ofcom may have no plans to allow other sectors of UK industry to use these aeronautical VHF frequencies (para 2.12 of the 14 December 2010 statement), it omits to note that it has no such power under international conventions as any aeronautical frequencies released by AIP will be returned to the overall European aviation pool. Nor does Ofcom indicate how the market discipline of AIP in the UK will assist in the remediation of projected spectrum congestion in the medium term in Europe. Unfortunately, Ofcom's single minded pursuit of AIP in this context does potentially appear to be a tax on safety.

Before turning to the bespoke fees consultation, we note that Ofcom has made much of NATS' position and its ability to pass on spectrum fees – as the regulated en-route ANSP, NATS En Route may enjoy a cost-plus pricing mechanism by which it can pass of these fees. For smaller airport ANSPs, given the relative bargaining strength of particularly low cost airlines, there is no such clear cut mechanism for passing on VHF spectrum fees as these were fees beyond the

reasonable contemplation of any aviation parties when agreeing long term contracts. Airports have been faced with airline intransigence in relation to increased fees for new security measures – there is no reason to suggest that the same will not occur with respect to spectrum charges.

Question 1

We support the introduction of bespoke fees for Air/Ground, Aerodrome Flight Information Service, Tower, Approach and ATIS assignments, under which fees would reflect the geographic impact of each individual assignment.

Question 2

We note that the maximum fee of £9,900 is based on Ofcom's application of the Business Radio AIP benchmark and this represents the upper limit of the proposed fees. While we welcome a ceiling, we believe that the fact that Ofcom asks this question highlights the difficulty of applying AIP on a stand alone national basis to incentivise reductions in spectrum use on a transnational basis.

While we do not object to the proposal to impose a standard fee for these wide area (transnational) assignments, we are concerned that the calculations to determine the percentage of the UK sterilised by spectrum usage should either not consider over-sea areas at all, or consider over-sea areas in determining the total UK usage. We note that in para 2.56, Ofcom states that the £9,900 reference rate applies to the 71,000 nautical square miles of the UK land mass, then at para 2.57 states that in determining the area impacted by a particular assignment, the area may include sea area, not just land area. This inconsistent basis for calculation in effect inflates the amounts to be paid under bespoke AIP for smaller assignments.

Question 3

On balance, we support Ofcom's conclusion that there is little merit in notionally deriving fees for Area Control, ACARS, VOLMET and VDL assignments on a bespoke basis.

We reiterate our concern, however, that the methodology by which the proportion of the UK land mass an assignment "uses" for the purposes of calculating bespoke fees, by its inclusion of sterilized sea areas in this calculation and the consequent inflation of the bespoke fees paid by smaller assignments in comparison to these wide area assignments. This would appear to enable wide area assignments operated by NATS En Route to pay comparatively less than airport related assignments.

Question 4

No comment.

Question 5

We appreciate the reasoning behind Ofcom's proposals and thank you for sharing with us your example workings as to how this would impact Glasgow Prestwick Airport. We are still somewhat unclear as to why higher altitude DOCs do not require further refinement to the bespoke fee calculation, as it appears from Table 1 that any circular DOC with a 25nm radius will attract the same fee, notwithstanding that "DOCs which extend to high altitude do attract relatively large separation distances because the radio horizon is more distant at higher altitudes" (para 2.53).

Subject to this observation and the UK land mass point noted above, on balance, we support the reasoning provided.

Question 6

Ofcom's reasoning in this section appears sound. However, the acceptability of this approach is predicated on the suite of bespoke fees. Our support for bespoke fees is that it offers the opportunity for smaller assignments to pay lower AIP fees; if the suite of fees alters significantly as a result of this consultation, our support for bespoke fees will be undermined.

Once again, the issue of the height of DOCs appears to have been dealt with somewhat diffusely. Our understanding based on Table 1 suggests that there is no difference in charging for a 25nm assignment whether the service height is 4,000 or 15,000ft.

Question 7

The proposal seems sound.

Question 8

Nothing further to add. However, Ofcom should remain aware that we maintain our overall opposition to the imposition of AIP to aeronautical VHF communications frequencies for the reasons set out in our previous consultation responses.

Closing observation

Ideally, we believe that a further weighting function should be applied in determining bespoke AIP fees, based on either the turnover of the unit, or number of movements the unit provides on an annual basis. Such a mechanism is similar to the principle used in determining license fees for CAA oversight (based on number of aircraft movements). This approach would be in our view a fairer 'means test' and less weighted against smaller organizations, making the effective tax burden on us even greater than it currently is, and thus undermining the competitiveness and viability of regional airports in these difficult and challenging market conditions.

Yours sincerely



Anne Mackenzie
Group Manager, Corporate Strategy
Infratil Airports Europe Limited