

## **Notice to NATS (En Route) plc under section 22(11) of the Transport Act 2000**

### **WHEREAS:**

- a) NATS (En-Route) PLC ("NERL") is the holder of an Air Traffic Services Licence ("the Licence") granted by the Secretary of State under section 6 of the Transport Act 2000 ("the Act") on 28 March 2001.
- b) Condition 6 paragraph 6(a) of the Licence provides that NERL shall procure in respect of the regulatory accounts prepared in accordance with Condition 6 paragraph 4 in respect of a regulatory year, a report by the Auditors addressed to the CAA stating whether in their opinion those accounts have been properly prepared in accordance with Condition 6 and the Regulatory Accounting Guidelines and on that basis fairly present the financial performance of the UK Air Traffic Services Business and the En route (Oceanic) Business, and the financial position of the Licensee.
- c) Condition 6 paragraph 6(b) of the Licence provides that NERL shall deliver to the CAA the Auditors' report referred to in paragraph 6(a) and the regulatory accounts referred to in Condition 6 paragraph 4 as soon as reasonably practicable and in any event not later than seven months after the end of the regulatory year to which they relate.
- d) Condition 6 paragraph 6(c) of the Licence provides that NERL shall arrange for copies of the regulatory accounts and Auditor's report referred to in paragraphs (b) and (c) above to be made publicly available.
- e) Condition 6 paragraph 7 of the Licence provides that NERL's regulatory year shall run from 1 January to 31 December unless otherwise agreed with the CAA.
- f) NERL was therefore required to comply with the requirements referred to in paragraphs (b) to (d) above by 31 July 2019.
- g) Changes to audit guidance issued by the Institute of Chartered Accountants in England and Wales in January 2016 have meant that auditors are no longer able to express an opinion in a report on regulatory accounts that they fairly present the financial performance of the UK Air Traffic Services Business and the En route (Oceanic) Business, and the financial position of the Licensee. They are able to express an opinion on whether the regulatory accounts are properly prepared in accordance with the CAA's regulatory accounting requirements.
- h) On 27 June 2019, NERL sent the CAA regulatory accounts for the year ended 31 December 2018 and procured a report by its Auditors addressed to the CAA stating that in their opinion the Regulatory Accounts had been properly prepared in accordance with paragraph 4 of Condition 6 and the Regulatory Accounting Guidelines. The Auditors did not give an opinion on whether the Regulatory Accounts fairly presented the financial performance of the UK Air Traffic Services Business and the En route (Oceanic) Business, and the financial position of the Licensee.

**Notice is hereby given that:**

- 1) The CAA is satisfied for the purposes of Section 20(1) of the Act that NERL is in contravention of the requirements of Condition 6 paragraphs 6(a) to (c) of the Licence.
- 2) The CAA is satisfied that for the purpose of Section 21(2) of the Act that the condition set out in Section 21(3)(a) has applied, namely that NERL agreed to take and has taken all the steps the CAA thought appropriate to secure or facilitate compliance with the condition concerned. These were:
  - a. to consent to the modifications that the CAA proposed to Condition 6(6)(a) of the Licence in order that the provision to procure a report by the Auditors to the CAA stating whether in their opinion those accounts fairly present the financial performance of the UK Air Traffic Services Business and the En route (Oceanic) Business, and the financial position of the Licensee, was replaced by provisions that provide, so far as reasonably practicable, an equivalent level of assurance by NERL's Auditors to the CAA and airspace users as that provided by the current Licence requirements
- 3) The CAA modified Condition 6(6)(a) of the Licence on 28 November 2019.
- 4) Accordingly the CAA hereby determines that it would not be appropriate to make a final order under Section 20(1) of the Act.
- 5) This notice is therefore served on NERL pursuant to Section 22(11) of the Act. Pursuant to Section 22(11) the CAA will publish this Notice on its website at [www.caa.co.uk](http://www.caa.co.uk) being the manner it thinks appropriate for bringing the matters to which the Notice relates to the attention of persons likely to be affected by them.



For the Civil Aviation Authority

28 November 2019