Economic regulation of NATS (En Route) plc: Initial Proposals for the next price control review (“NR23”)

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Submission by Prospect to the Civil Aviation Authority Consumers and Markets Group

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Prospect submission on CAA Initial Proposals for NR23

Introduction

1. This document outlines our response to CAP2394, on behalf of Prospect's Air Traffic Control Officers (ATCOs') and Air Traffic System Specialists (ATSS) Branches. With 2000 members in the Air Traffic Control Officers' Branch, 800 members in the Air Traffic System Specialists Branch, and over 250 ATC workers in other branches – including the CAA - we effectively represent the entire workforce of professionals involved in UK ATM.

2. The NR23 plan will be crucial for NERL as it continues to recover from the pandemic. NERL needs the resources to recover in itself, as well as helping the wider aviation industry, and the UK as a whole, rebuild.

3. There will inevitably be pressures on cost - but a long term view is needed to ensure that sufficient resources and investment in technology are available to meet the demands of the recovering economy and the aviation industry.

4. 2022 has demonstrated that traffic has recovered and will continue to grow – probably reaching 2019 volumes next summer. It would be folly to allow NERL once again to be in the position it found itself in during RP2 when it could not meet demand. This would not only cause NERL internal difficulties but hamper the aviation industry's recovery.

5. As we said in our submission on NERL's draft business plan, Prospect believes it affords a sensible balance between cost and investment and, on paper at least, seeks to address the need for adequate resourcing. We did, however, have concerns as to the deliverability of the resourcing plan.

6. In our view, the CAA's proposal could make NERL's plan undeliverable. There will be inadequate resources to deliver the service required, inadequate resources to deliver the LTIP and there is no hope of NERL being able to improve its resilience. It is disappointing that CAP2394 makes no attempt to conduct an impact assessment of its proposals or to assess the inherent risks to delivery.

7. This is particularly surprising given the account of stakeholder views summarised on CAP2394, page 39. It is difficult to see how the initial proposals seek to address those views. Page 94 records that airlines are particularly concerned as to whether there are/will be sufficient ATCOs to support the recovery of traffic: "the airlines preferred NERL to prioritise safety and err on the side of caution, with *over capacity* of ATCO resource."

8. In previous submissions we have offered our belief that the public at large would be prepared to pay slightly more for an improved and resilient service, and we are pleased to see that this now seems to be the accepted wisdom (CAP2394, page 11, paragraph 12). The public certainly would not want to see a worse or unreliable service in return for a tiny reduction in the cost of their flight (which would anyway be unlikely to translate into a cheaper ticket).

9. We will start this submission with some comments on the general approach taken in the CAP before commenting on some of the particular detail of the proposals.

The baseline

10. We have serious concerns about the apparent decision to use the 2022 out-turn as the costs baseline for NR23 – especially for staff costs and, within the staff costs,

especially for operational staff costs. We contend that the appropriate baseline would be 2019.

11. This is because current traffic levels are close to 2019 and may well reach that high during 2023. Operationally, the staffing requirement now is that same as it was in 2019. But the number of operational staff is down by approximately 10%. By way of illustration, NATS employed 1,780 ATCOs in April 2019 but this has now fallen to 1,560 (this is from pay bargaining data, we do not have access to a NERL-NSL breakdown). The number of ATCOs employed is nearly down to the same level it was at the beginning of RP2. And we shouldn't need to remind the CAA what happened next.

12. This is not the result of a conscious decision by NATS, nor a result of reorganisation and redundancy; it is not a planned reduction. It is simply a consequence of the suspension of training having prevented the replacement of 2020 and 2021's resignations and retirements. NATS has a plan to regenerate its operational staffing to the required level which, in itself, would normally mean running over-budget for a period (hence the NERL plan to increase ATCO costs in NR23). It seems perverse to us that the Regulator should seek to force NERL to build from an artificially low baseline and not to acknowledge that it is having to start from below the operational requirement.

13. It is not clear what is driving the challenge to the NERL business plan when it comes to the staffing component of Opex. Is it the overall size of the pay bill, aggregate pensionable pay increases, average pay, or some other measure? But, whatever the real target, Figure 4.1 of CAP 2394 is clear: NERL's plan is for pensionable pay in real terms to only return to 2019 levels in 2025.

14. Although most of the focus is on ATCO costs, Prospect is also concerned about the impact of these Proposals on Technical Services. Discussions on the Technical Services workforce plan suggests that, on NERL's own business plan, there is currently a NATS-wide shortfall of approximately 50 engineering and IT specialists. The numbers in CAP 2394 widen the gap to 100 or so.

15. CAP 2394 appears to contest NERL's assessment of the operational requirement and its forecasts for the staffing resource it believes to be needed through NR23. But it is clear from the evidence on service performance and cost presented in CAP appendix F pp72ff that NERL compares well with comparators.

16. Fundamentally, NERL provides good value for money and the pursuit of marginal gains on cost/price presents risks and service delivery challenges out of all proportion to the savings that would be gained. As the CAA states in Appendix F, NERL's charges are low relative to the overall consumer ticket prices: in 2019, NERL's en route charges were, on average, approximately £1.67 per passenger and Determined Costs about £1.95 per passenger. Based on NERL's business plan, we estimate that its en route charges would be £2.31 per passenger over NR23, with £0.35 of that being the 75% of the covid TRS debtor recovered during NR23 (as the recovery period was then envisaged); As CAP 2394 acknowledges (page 157 footnote), under the CAA's Initial Proposals, NERL's en route charges would be £2.03 per passenger over NR23, with £0.23 of that relating to TRS revenues – to be recovered evenly over NR23 and NR28

17. These figures demonstrate that changes in NERL's charges within the range set out in the Initial Proposals would have a relatively small impact on airlines' costs and, thus, on the ticket prices faced by passengers.

Inflation

18. We have to say that the CAA's approach to inflation is confusing and has made the preparation of this response more difficult than usual. We summarise our reading of

the position described on pages 92-94 (*Rebasing NERL's Costs)* as follows, so that we can be corrected if we have misunderstood.

19. For 2022 Opex, you have recalculated the 2020 costs in the NERL plan with a higher rate of CPI than NERL used. (Presumably this will be academic because a real CPI figure will be known by the time the price determination is finalised.) However, the consequence of this recalculation is that NERL's cost base for 2022 is lower than in the NERL plan at 2020 prices, as in CAA Table 4.1 cf NERL table on page 35 of its 7 February 2022 Business Plan.

20. The CAA then makes a further adjustment to 2022 by introducing the Average Weekly Earnings forecast. That paragraph ("To perform this adjustment…") does not fully explain (or justify) this methodology. And it could be argued again that it is irrelevant because 2022 actual costs will be known before the final determination. The CAA says that because the AWE forecast for 2022 is higher than the CPI forecast used by NERL, its nominal costs have been increased. Sounds good! But this ignores the fact that CPI will be *higher* than AWE

21. What is presented as a mere technical adjustment is a fundamental change in policy – the use of AWE instead of CPI. The end result is that NERL's determined costs for 2022 (and beyond) will be lower by some £11M. This is disingenuous.

22. We strongly object to this approach – both because it is unnecessary and because it is intellectually inconsistent: it appears to be an opportunistic attempt to take a chunk out of NERL's baseline on the back of a sharp spike in inflation which is being lagged by an increase in average earnings. This would have more credibility if it was coupled with a proposal for the nominal baseline costs to be inflated by AWE for the period of RP2 and RP3i as a retrospective adjustment!

23. AWE is not intended to be used for the purpose of measuring inflation. It is affected by changes in the composition of the workforce and working hours as well as pay.[1]

24. The way AWE is constructed makes it a relatively volatile index. It is certainly not a reliable or accurate measure of NERL Opex inflation.

25. Prospect has not come across the use of AWE for this sort of purpose or even in pay determination for specific employers or groups. We have not found another example of an industry regulator using it in the way proposed. It is not an appropriate forecasting or modelling tool. Setting that aside, the CAA has not explained which of the numerous AWE datasets it proposes to use: whole economy, transport and storage, or private services? Total pay or regular pay; including or excluding arrears? This choice will give significantly different results, as will the choice of time period.

26. The data in Figure 4.3 is presented over a very odd reference period – 2003-2021. Why? No reason is given, so we can only assume it is because that period delivers the desired answer! If a more obviously relevant period is selected – say 2015-2022 – then AWE[2] has increased by 30.7%, while CPI has increased by 23.7% (both to September 2022). It is worth registering here that, over this period, NATS' pay scales have been revalorised by a cumulative total of CPI+3.5% (ie around 3.5% less than AWE); while the nominal pay bill for the negotiated grades NATS-wide has stayed the same (at around £260M).

27. Or is it proposed to use the AWE index for Transport and Storage? While that includes aviation, it includes lots of other components as well and a range of occupations that

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[1] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/averageweeklyearningsingreatbritain/october2022#glossary

[2] AWE: Whole Economy Index: Non Seasonally Adjusted Regular Pay Including Arrears (dataset KA5H)

bear little or no comparison to NERL's workforce. It is not really better-targeted than using the whole economy index. But, hey! 2015-2022 AWE Transport and Storage (K5AL) has only gone up 15.2%, The problem is that this sector has historically outstripped whole economy AWE but dipped dramatically in 2020 and 2021. Whole economy AWE has grown by 14.5% since January 2020, while Transport and Storage AWE has grown by just 8.6% over the same period. We suggest that this particular sector index is likely to surge again in 2023, particularly in aviation.

28. In summary: this element of CAP 2394 smacks of an opportunistic attempt to reset NERL's cost-base which we believe will be damaging.

29. This proposal should be submitted to an impact assessment. Basically: what if staff pay is cut in real terms by, say 5%? What would be the impact on recruitment into certain specialist roles (engineering and analytics in particular), retention, industrial disruption, informal withdrawal from voluntary activities (overtime, training, etc)? We expand on this below.

30. If the CAA were particularly concerned with a spike in inflation, an alternative approach - which would be more consistent and provide more regulatory certainty - would be to smooth CPI over the reference period in a similar manner to the recovery of the traffic risk sharing debtor. This way, CPI would continue be used as the established index, in line with established practice: offering clarity for NERL, its shareholders and stakeholders.

Lack of an impact assessment

31. As we suggested earlier in relation to inflation, it appears that the proposals generally have not been subject to an impact assessment. We see considerable risks inherent in many of the proposed changes to the NERL business plan (a plan that was not in itself free of risk). The areas we would highlight as being at risk from the approach to Opex and inflation in particular are industrial relations and staff motivation and morale, staff retention, service delivery (specifically, delay), delivery of the LTIP (up to and including implementation) and delivery of ATCO training

32. There are significant and real industrial relation risks with the approach the CAA is taking. Our members are experiencing the cost-of-living crisis along with the rest of the UK, and the wider economy is experiencing a high degree of industrial action as a result of employers not meeting cost of living rises. The Prospect branches have membership densities of over 90% in NERL and any dispute, whether it leads to formal industrial action or not, is likely to have an impact on service delivery. Morale is already low and we have been working with NATS over the last few months to repair industrial relations. A dispute in the 2023 pay round is likely to be counterproductive.

33. The ramifications if NATS is not able to meet expectations on the maintenance of rates in the short-term and of real-terms pay growth over NR23 would be significant for NERL and the UK as a whole. The CAA needs to re-examine its approach and conduct an impact assessment on its choice of indexation. In years where there has been industrial unrest in NATS the consequence has been increased delays – in the main a result of staff not volunteering to work overtime. 2016 and 2022 are particular examples of this.

34. There is a wide range of additional and voluntary tasks that NERL relies on. As well as additional attendances (overtime), over half of ATCOs are on-the-job instructors and/or deliver competency assessments. The staffing of these tasks is dependent on goodwill. Within Technical Services, there is a major issue surrounding unpaid overtime, particularly among staff involved in the delivery of the LTIP. In a survey just before the pandemic, our engineering members reported that, on average, they are working an additional five hours' unpaid overtime a week. Again, this is based on goodwill – professional pride and the desire not to let colleagues and the business down. This sort of goodwill can be lost very quickly.

35. An attempt to drive pay restraint by stealth – by changing the costs index – is likely to exacerbate NERL's resourcing issues if it makes retirement more attractive to staff in their mid-50s. The average age of retirement of ATCOs in particular is a very important factor in NERL's workforce planning and NERL's productivity and service delivery would be massively affected if the average was to come down even by just one year. We know that many of our members who are in this category, or approaching it, will re-examine their motivation to stay and/or to train their successors if their pay fails to keep up with the cost of living.

36. We have focused here on what might be called HR risks, but the impacts go way beyond the impact on staff; we are concerned that any impact on staff is likely to have an impact on the service. In Technical Services, the risks are particularly marked. The nature of NERL's systems means that there a numerous single points of failure. System outages have to be seen as increasingly likely, even if staff with the knowledge of the legacy systems are fully engaged. We are hearing from members that some teams with this expertise are discussing whether to retire en mass – on the basis that "no-one wants to be left holding the baby". There is a significant risk that there will be no-one left at all!

Staff costs

37. Prospect does not recognise some of the analysis in the Steer report (October 2022). In particular, Figure 2.6 (page 19 of Steer) bears little relation to what we know about the 'evolution' of NERL's salaries. [We note that Steer is using a reference period of 2015-22 for this purpose, not 2003-2021.] We do not recognise Steer's representation of ATCO pay growth in their Figure 2.7. Nevertheless, we note that Steer Figure 2.6 agrees with us that pay growth over RP2 and RP3i has lagged behind AWE.

38. The benchmarking by Steer is crude and it is incredibly simplistic to argue that, because staff salaries have increased faster than general inflation, wage growth should be slower in future. We wholeheartedly reject the benchmarking that Steer has done with respect to ATCO and ATSS grade wage levels. Given the history of annual pay negotiations in NATS, we do not recognise the Steer analysis. It does not reflect productivity gains. As the CAA points out, there has been a productivity improvement generally of about 1.75% pa. We suggest that aggregate CPI+3.5% pay awards since 2015 show that there has been a distribution of about half these savings through CPI+ pay awards. We could crudely summarise the norm as: CPI is a given and anything more is a consequence of efficiency gains or improvements in service levels (ie working practices changes). Of course, it is not as simplistic as this, but it has been the outcome over time.

39. The revised traffic forecast (STATFOR OCT 2022) will deliver a productivity improvement because of the extra traffic expected over the OCT2021 forecast. The resourcing profile and training capacity of ATCOs in particular will not allow for significant extra resources in the early to middle years of the reference period, therefore existing staff will have to absorb this additional traffic. What will happened to that 'productivity gain'?

Staff costs – the graduate programme

40. The CAA seeks to trim NERL's planned graduate programme. It presents no rationale for this. The VR scheme, by its nature, resulted in a disproportionately high number of long-serving, experienced staff leaving the business. Not all the posts vacated can be deleted and the cost of replacing many of those skills through external recruitment is prohibitive - that is, if they can be replaced at all. The graduate programme (which was also suspended during COVID) is a crucial component of NERL's recovery plan. It is a false economy to cut this in pursuit of short-term cost savings. We welcome the CAA's assertion that it is for NERL to balance its resources within the allowance set by the regulator (CAP 2394, p90), but that makes us question why this autonomy is not being

granted in relation to the graduate programme. What is proposed here is a very precise and, yet, untargeted cut.

41. While we accept that the CAA does not approach its task through the prism of wider government policy (although its position on current pay awards appears to be an attempt to pursue Treasury public services pay policy), we would hope that some weight is given to NATS' status as a near-monopoly PPP and, in effect, a government-sponsored generator of ATM-related skills to the UK. The graduate programme in particular should be seen as part of the delivery mechanism.

Pensions

42. As we said in our previous submission, Prospect was instrumental in supporting the closure of the Defined Benefit scheme, and in reaching agreements with NATS to limit the impact of pensionable pay rises over the last 10 years. As a product of the negotiations that closed the DB scheme, the Defined Contribution scheme arrangements should be viewed in the context of the pension it replaced. In our view, pension is a fundamental term and condition and we will robustly defend the current arrangements. As such this element of the CAA Proposals should be subject to an impact assessment.

43. Many of our members have taken the opportunity to opt out of the DB scheme, providing significant savings and making it easier for the Trustees to manage the actuarial risk. We support the inclusion of the pension cash alternative costs into the pass through mechanism.

44. We have serious concerns about the position taken on pages 104ff. NATS does not control the Trustees and can't dictate to them what discount rates – or other assumptions – to apply. Does it weaken the covenant? Does it undermine the carefully crafted Regulatory Policy Statement?

45. We are strongly opposed to the proposal to change the contribution rates for the DC scheme. There are a number of reasons why this would be wrong:

    a. The current contribution rates were expressly designed to be broadly comparable to the DB scheme which was being closed; such a dramatic change in pensions provision would create a two-tier workforce and would be a breach of the collective agreement between NATS and the unions which enabled the closure of the DB scheme. This is likely to result in an industrial dispute as both Prospect branches have long-standing policies in place which prohibit agreement of lower rates for the DC scheme.

    b. One of the main HR challenges facing NERL in the NR23 period will be retention. An attack on pensions will be seen as further undermining the social contract within NATS such that loyalty will be eroded. And the 'saving' in NR23 is marginal.

    c. It would be unfortunate if the regulator imposed changes for NERL which have a detrimental impact on NSL. TANS is a highly competitive labour market in the UK and NATS' DC pension is a significant factor in the retention of Tower controllers.

    d. New starters on worse pensions will, in the long-run, more readily move in early/mid-career.

    e. NATS aspires to be a 'Top 25' employer. Having a pretty run-of-the-mill pension for a 'blue chip' company would not match up to the marketing.

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46. It is worth noting that the CAA provides a relevant comparator on the question of having staff on two pension schemes which are some way from comparable. Its DC scheme staff are employed on pay scales with a 5.26% pay lead over the scales for their DB colleagues. The maximum employer contribution in the CAA is 12%. Although we would argue that pound-for-pound, pension buys more retention value for the employer than pay, if NATS was to follow the CAA precedent with a pay adjustment the proposal would not actually reduce NATS' costs.

Capex

47. The DP En-Route legacy escape program continues to suffer from delay, of which a certain element is a result of the pandemic. It is becoming clear that the VR program has compromised resources and consequently the ability for NERL to deliver its Capex program. Furthermore, proposals contained in CAP2394 with respect to staff costs (DC pension scheme costs / AWE indexation) will provide a more challenging recruitment environment. Without talented engineering staff, delays will continue, and retention in expertise to maintain the existing legacy systems is a real concern.

48. Due to the delays and the technical challenges, the benefits of the introduction of DP En-Route will not be realised in NR23 and the CAA will need to update its final proposals accordingly. Productivity and other operational benefits will not materialise, particularly in area control - Swanwick. This will have a bearing on capacity, 3Di and staffing.

49. Given that since the time of crafting the initial proposals that many factors have changed, the final proposals need to reflect the change in the capex program - particularly in light of the replanning of the DP En-Route program and the change in traffic forecast. These will have a material impact on the service delivery. The proposed targets will need to be revised in respect of the increase in forecast traffic and the assumptions of improvements of DP En-Route removed.

Traffic levels and performance

50. Prospect supports the concept and design of the 3Di metric, although we believe more work needs to be done to refine it and avoid any unforeseen consequences. For example, from the perspective of frontline operational staff, we know there are contradictions in the metric where the pursuit of an environmental benefit – eg certain direct routes, or changes in aircraft cruising level from that originally planned - can result in a worse 3di score.

51. The arbitrary nature of the proposed targets by a straightforward linear reduction is not linked to specific improvements through capex delivery or airspace modernisation. In short the proposals are divorced from reality and seem to be extrapolated from historical trends. The targets would be better aligned to the delivery benefits from the capex program and airspace modernisation, as these are the factors that will realise tangible benefits to environmental performance, rather than just extrapolating a graph.

52. The impact of non-revenue earning flights on the 3Di score or rather the day-to-day operation of any particular given airspace can be significant. Noting the remarks in para 2.32 - 2.36 rather than applying the 0.6 proxy score we would suggest the NR23 targets are remodelled removing the 0.6 proxy score, but then removing the non-revenue flights entirely from the model. The impact of non-revenue flights can be significant., eg TV relay flights over certain key cities can have a large impact on the climb, descent and lateral track profiles of aircraft, increasing the 3di score significantly as traffic has extended track miles or has to have a stepped (where the aircraft levels off) climb or descent.

53. Due to the original capex program not being delivered as envisaged it is sensible that the 3di targets are revisited. They should be proposed based on actual deliverable improvements that will be made through the capex and airspace modernisation program in NR23, rather than those envisaged at the time of the writing of NERL's business plan. The assumptions made in 2.44 point 2 are no longer valid as there has been a significant change to the timing of the capex program.

54. Considering NERL's historical performance as set out in table 2.1 and that the capex program won't deliver the anticipated benefits it is difficult to now justify the proposed CAA targets. These need to be re-baselined and better evidenced given the historical performance levels between 2015 and 2019.

Capacity

55. Similarly to the 3Di targets, the capacity targets need to be re-baselined given the capex program will not now deliver the benefits envisaged in the NERL business plan. The capacity targets and associated incentives drive front line management behaviour which will be far removed from the high-level views taken by the CAA. Avoiding accrued delay takes on a focus which detracts from everything else (apart from safety). Instructors are reassigned from training to operations - particularly from the simulator – disrupting training, the capex delivery program, airspace redesign, and a wide range of other important tasks, which are sidelined or rushed. Competency examining is not afforded the time it needs, so the continuous assessment process is delayed, career development through effective line management becomes non-existent and other activities fall by the wayside, all in the name of achieving a delay target. It cannot be stressed enough that the targets proposed are at a level that will be very stretching and distracting, and will drive detrimental behaviours which will damage NERL's performance. Furthermore the change in ATCO skill mix will provide less flexibility to meet additional demand. This is due to the fact that experienced, multi-qualified ATCOs will be retiring with less experienced ATCOs replacing them and they will take time to gain additional qualifications. Over-stringent delay targets, will limit the capacity to train ATCOs to gain additional validations as OJTIs are required to actively control and trainees are required to remain on the areas for which they are valid. This will have a direct impact on NERL's flexibility and resilience.

56. We do not agree with the proposals to introduce a C1 trigger for two reasons. Firstly it is extremely unlikely given the traffic forecast and staffing levels that NERL will be in the position to earn a bonus, hence the work is probably better deferred to a later control period. Second, it is unfair to limit NERL's bonus-earning opportunity to events over which it has no control. A period of unsettled weather over the summer or other events outside of NERL's control, such as failures in airport operations. NERL can only reasonably be held to account for measures it has control over. Should it become clear over a particular year that events outside of NERL's control would result in no bonus be payable then the incentive to improve the C2 or C3 performance beyond the penalty threshold.

57. The delay to the DP En-Route program will further compromise the ability for NERL to improve delay performance.

58. We should remember in all of this that NERL's plan and, it appears, the CAA proposals rely on a significant amount of overtime in the plan. There is no guarantee of this and no obvious measures in place to secure it. In the first half of 2022, there was an average of 12s NERL-attributable delay and over the summer AC requested c730 overtime shifts. This demonstrates that, at only 90% traffic, delay is 3s above the CAA target even with the extensive requirement for overtime. There are, of course, limitations on the amount of ATCO overtime that can be worked – notwithstanding the willingness of volunteers, the rostering and fatigue restrictions prevent excessive use of overtime.

Reconciliation Review

Voluntary Salary Reductions

59. We strongly disagree with the disallowance of £2 million for further voluntary pay reductions. The assumptions used by Steer are untested and have no foundation. The argument that 50% of management grades took a voluntary 10% reduction and, therefore, so would others is flawed.

60. At the start of the pandemic, NATS agreed to a Prospect proposal that the January 2022 pay award be reversed. In other words, the entire negotiated grades group saw a voluntary pay reduction of 2.3%. 50% of the personal contract group agreed to a reduction of 10%. This is hardly compelling evidence that half of the staff as a whole would have followed, had they been asked. Apart from anything else, the fact that 'only' 50% of management elected to take a voluntary 10% cut is hardly a demonstration of confidence in the idea and, thus, negotiated grades should be considered unlikely to have been convinced. Furthermore, personal contract holders are eligible for bonus payments – of up 45% of their salary – and they received these in December 2021, more than offsetting their temporary reductions in salary.

61. This issue is presented in the context of NERL's use of furlough, with the implication that NATS was over-generous in not reducing the pay of staff on furlough. Given that the CAA introduces the reconciliation review section by reassuring us that it is not seeking to apply the benefit of hindsight, it is important to stress here that Prospect and NATS reached a collective agreement on the use of furlough within a few hours of the government CJRS being announced. The context was the absolute requirement to protect the operation by avoiding cross-contamination between watches, enabling rotation of staff through furlough and providing for short-notice recall to duty. Quite simply, it would have been impractical to have lost these flexibilities by insisting that staff on furlough should take a pay cut. There was no time to devise selection procedures and sophisticated standby and recall processes. We are proud of the part this played in protecting the operation at a time when others were in disarray. NATS' COVID-security was exemplary and the furlough agreement(s) had a big part to play in that record.

VR programme

62. First, it is worth saying that Prospect was opposed to the use of redundancies as a response to the pandemic. And we had significant misgivings at the time about the conduct of the NATS programme. In essence, we believe they let too many people go, from some specific skillsets in particular. And, aside from the VR programme, we were very disappointed with its handling of the TATCs' position. However, having arrived at these decisions, NATS had little alternative but to use the terms that had been established for decades. NATS' desire to reduce costs quickly prevented the negotiation of a replacement scheme and, given our misgivings, we were unlikely to have been convince of the need to change redundancy terms (it should be remembered that employees nationwide were in fear for their futures in 2020). Whilst Prospect was willing to negotiate a 'COVID special', this would probably have focussed on early retirement so as to make way for regeneration of skills and to make space for the student and trainee ATCOs in particular. It is unreasonable to conclude that NATS could have spent significantly less on redundancies and achieved the same outcomes.

TRS

63. We do not object to the proposal to extend the TRS reconciliation time frame to 10 years. But we will want to be assured that this doesn't result in excessive gearing and potential questions for the financeability of the business.

Summary and conclusions

64. Traffic has recovered and will continue to grow towards or even exceeding 2019 volumes in the next two years. It would be folly to allow NERL to be in the position it found itself in during RP2 when it could not meet demand. NERL's resources are already below requirement. This Initial Proposal would prevent it delivering the change programme, service resilience and service quality the industry wants to see.

65. It is disappointing that CAP2394 makes no attempt to conduct an impact assessment of its proposals or to assess the inherent risks to delivery. This is particularly necessary for the proposal to change a CPI default inflator for Opex to AWE.

66. We are fundamentally opposed to this change. There is no rationale for the use of AWE other than to secure a major reset of NERL's cost-base. This is opportunistic at best.

67. We are strongly opposed to the proposal to change the contribution rates for the DC scheme. There are a number of reasons why this would be wrong, but it has to be understood that the current contribution rates were expressly designed to be broadly comparable to the DB scheme which was being closed; and that closure was the subject of a collective agreement. Any challenge to it is likely to result in industrial disruption.

68. Calculated as a reduction in airline ticket prices, the 'haircut' in these Proposals would yield a marginal saving (a reduction which will, or course, never materialise in the prices passengers pay!) But the risks to the customers' desire for a safe, prompt, reliable and resilient service are considerable. Many of these risks are 'HR' risks: recruitment, retention, motivation and industrial relations. Is it worth it?