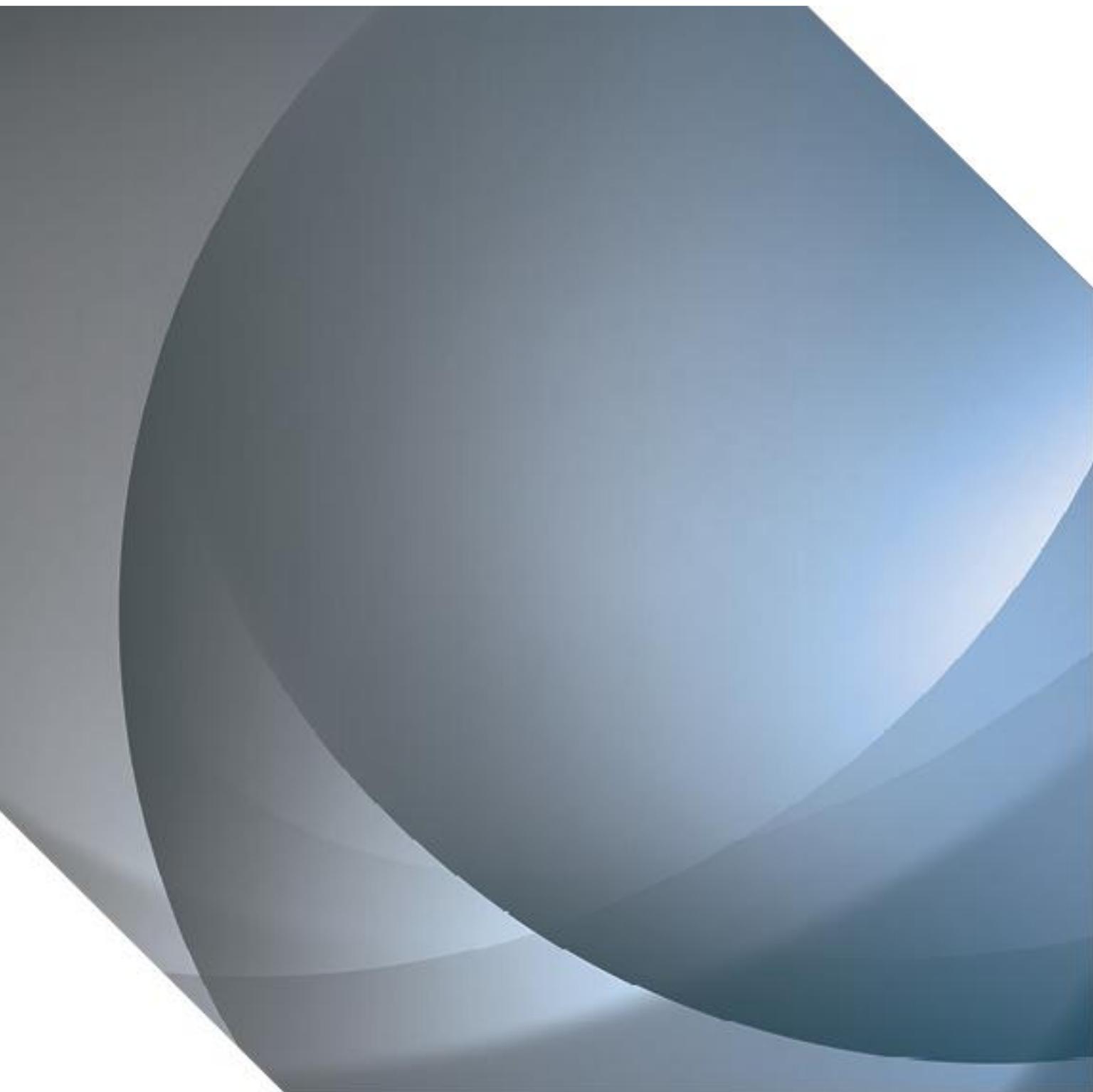


# Provision of Terminal Air Navigation Services (TANS) in the UK: Call for evidence

CAP 1226



# Provision of Terminal Air Navigation Services (TANS) in the UK: Call for evidence

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1. The CAA is calling for evidence regarding the provision of terminal air navigation service (TANS) in the UK. The CAA is seeking evidence to provide assistance and advice that the Secretary of State for Transport (SoS) has requested from the CAA under Section 16 of the Civil Aviation Act 1982.<sup>1</sup>

## Background

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2. In May 2012 the SoS requested advice from the CAA as to whether the provision of TANS at UK airports with over 50,000 instrument flight rules air traffic movements was subject to “market conditions”. The analysis was requested in order to identify how the UK TANS market should be regulated under the relevant Single European Sky Regulation.<sup>2</sup> The Regulation allows for exemptions to be made from some aspects of the Regulation, including the requirement to regulate charges for TANS, where market conditions exist, and it contains an Annex which sets out EU criteria for judging whether such conditions exist. Our review and advice was published in February 2013 as CAP 1004<sup>3</sup>. The CAA’s advice at the time was that market conditions were not present. The review identified concerns in several areas, relating to:
  - The relationship between NATS Services Ltd (NSL) and NATS En Route Plc (NERL) in terms of identity and branding, and regarding the transparency of dealings between the TANS operator and the NERL service.

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1 The request for the study is available on the CAA's website at <http://www.caa.co.uk/default.aspx?catid=589&pagetype=90&pageid=7963>

2 Annex 1 of EU Regulation 1794/2006 (now 391/2013)

3 Available on the CAA's website at [www.caa.co.uk/cap1004](http://www.caa.co.uk/cap1004)

- Historic commitments to employees with respect to pension arrangements, which could affect the availability of staff, or the terms and conditions of transferring staff.<sup>4</sup>
  - A general lack of competitive tenders and evidence of contracts changing hands.
3. The SoS accepted the CAA's advice in this matter, which means the UK plans to impose a degree of economic regulation of TANS services under the EU performance scheme for RP2 (2015-2019). The approach we have adopted is set out in CAP 1157.<sup>5</sup>
4. TANS is potentially competitive, as each tower could be operated by a different provider. The approach service for a number of airports can be combined and operated remotely from the airports requiring the service, as with the London Approach service in the London Terminal Manoeuvring Area.
5. Since the publication of CAP 1004 there have been a number of developments in the market:
- the notification of change of provider for the TANS service at Birmingham Airport from NSL to Birmingham Airport Air Traffic Ltd;
  - NSL was awarded a further five year contract by Cardiff Airport in January 2014;<sup>6</sup>
  - NSL was awarded a further five year contract by Belfast International Airport in April 2013;<sup>7</sup>

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4 The 'trust of a promise' agreement places obligations on NATS to maintain the pension arrangements of some employees including, for example, where a Transfer of Undertaking (Protection of Employment) Regulation (TUPE) occurs. In the event that NATS is not able to assure employees of the continuation of existing pension benefits, the affected employees have the right to refuse to transfer to a new employer. In this case, NATS may have an obligation to continue to employ those employees. This is of particular relevance for ANSPs since licensing and validation requirements for air traffic controllers do not easily lend themselves to the frequent movement between different units or positions within a unit or centre. New ANSPs will usually have to make use of a proportion of the existing NATS staff to make a credible tender for any TANS service.

5 CAP 1157 can be viewed on the CAA website see: [www.caa.co.uk/cap1157](http://www.caa.co.uk/cap1157)

6 <http://www.nats.aero/news/nats-secures-five-year-contract-cardiff-airport/>

7 <http://www.nats.aero/news/belfast-and-gibraltar-airports-renew-contracts-with-nats/>

- the notification by Gatwick Airport Ltd in July 2014 that it would be awarding its contract for TANS to DFS;<sup>8</sup>
  - NSL and Luton Airport have agreed to extend the current contract for a further two years to November 2017;<sup>9</sup> and
  - NSL was awarded a 10 year contract by Manchester Airports Group in August 2014 to provide TANS at both Manchester and Stansted airports.<sup>10</sup>
6. In light of market developments, the SoS has asked the CAA to review the assessment that was made in CAP 1004.

### Call for evidence

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7. We are seeking any information that will help us to consider how the findings of CAP 1004 may have been affected by subsequent developments.
8. We are particularly keen to receive information from airport operators and ANSPs, including non-UK ANSPs.
9. Particular issues of interest to the CAA at this stage are the following.
1. Events, such as those outlined above, that have taken place in the TANS market since the publication of CAP 1004 and how these events affect the presence or not of market conditions in the UK.
  2. Any additional evidence that affects the findings of CAP 1004, including the barriers to entry.
  3. How should we deal with the remaining issues identified in CAP 1004?
  4. Any other representations relating to the competitiveness of the TANS provision in the UK.

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8 <http://www.mediacentre.gatwickairport.com/News/Gatwick-announces-contract-award-for-air-traffic-control-services-921.aspx>

9 <http://www.nats.aero/news/london-luton-airport-extends-nats-contract/>

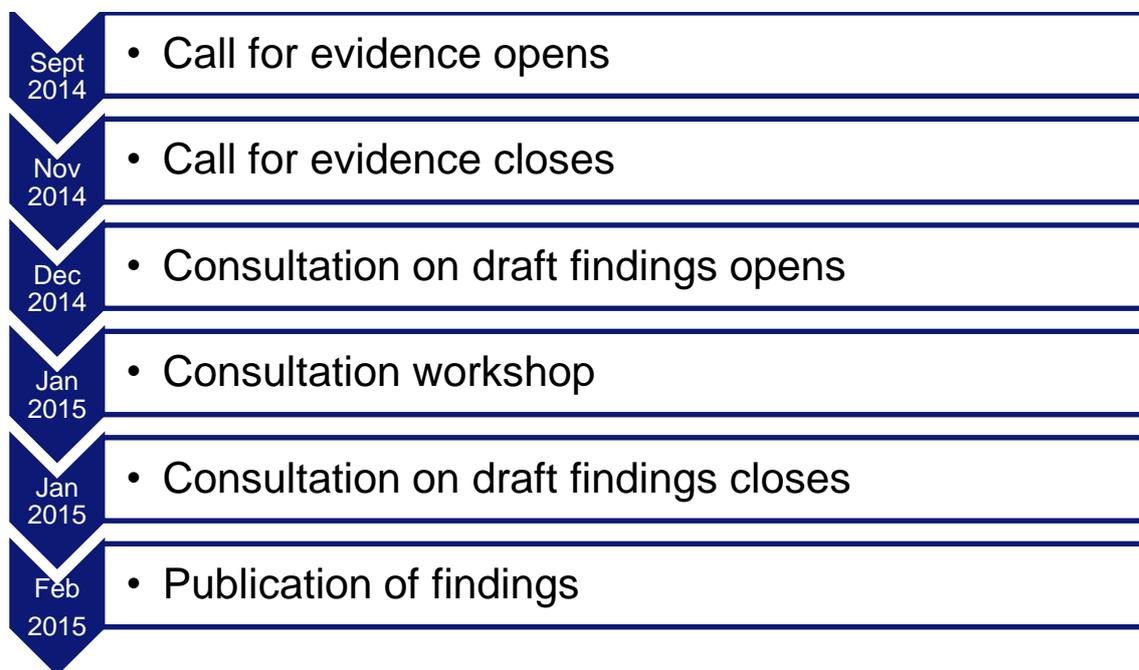
10 <http://www.nats.aero/news/mag-nats-announce-ten-year-deal/>

## Next steps and deadlines

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10. Please provide any evidence submissions to [thomas.carr@caa.co.uk](mailto:thomas.carr@caa.co.uk) by 16:00 on 7 November 2014.
11. During this call for evidence we are approaching airport operators and ANSPs with regard to:
  - Reviewing the open tendering processes; and
  - Reviewing the processes and motivations behind decisions not to tender.
12. This call for evidence runs until 7 November 2014 during which time we are open to submissions from industry. These may either be written or we are happy to host meetings to discuss issues in detail.
13. Following the call for evidence we intend to examine the submissions received along with any information uncovered through the CAA's own work. We aim to publish our draft findings in December 2014 for consultation through to January 2015. We aim to hold a consultation workshop outlining the findings in January 2015. Following that consultation we aim to produce our final view no later than end of February 2015 and present this to the SoS.

Figure 1: Indicative Timetable



## Transparency and confidentiality

14. In the interests of transparency we intend to publish as much evidence as possible on our website. With this in mind, we request that you provide both confidential and non-confidential versions of your submissions. The non-confidential submissions will be published on our website with the CAA's draft report. As this request is made in support of our duty under section 16 of the Civil Aviation Act 1982, information provided to the CAA is subject to the disclosure requirements under section 23 of that Act.

## Definition of TANS

15. Air traffic services are separated into the "en-route" service, which controls traffic during the cruise phase of the flight away from the airport environment, and TANS. The TANS service itself normally consists of an approach element and an aerodrome element. The approach element typically controls the aircraft within 40-50nms from the airport. Figure 2 below sets out the different air traffic control services.

Figure 2 Illustrative definition of TANS

