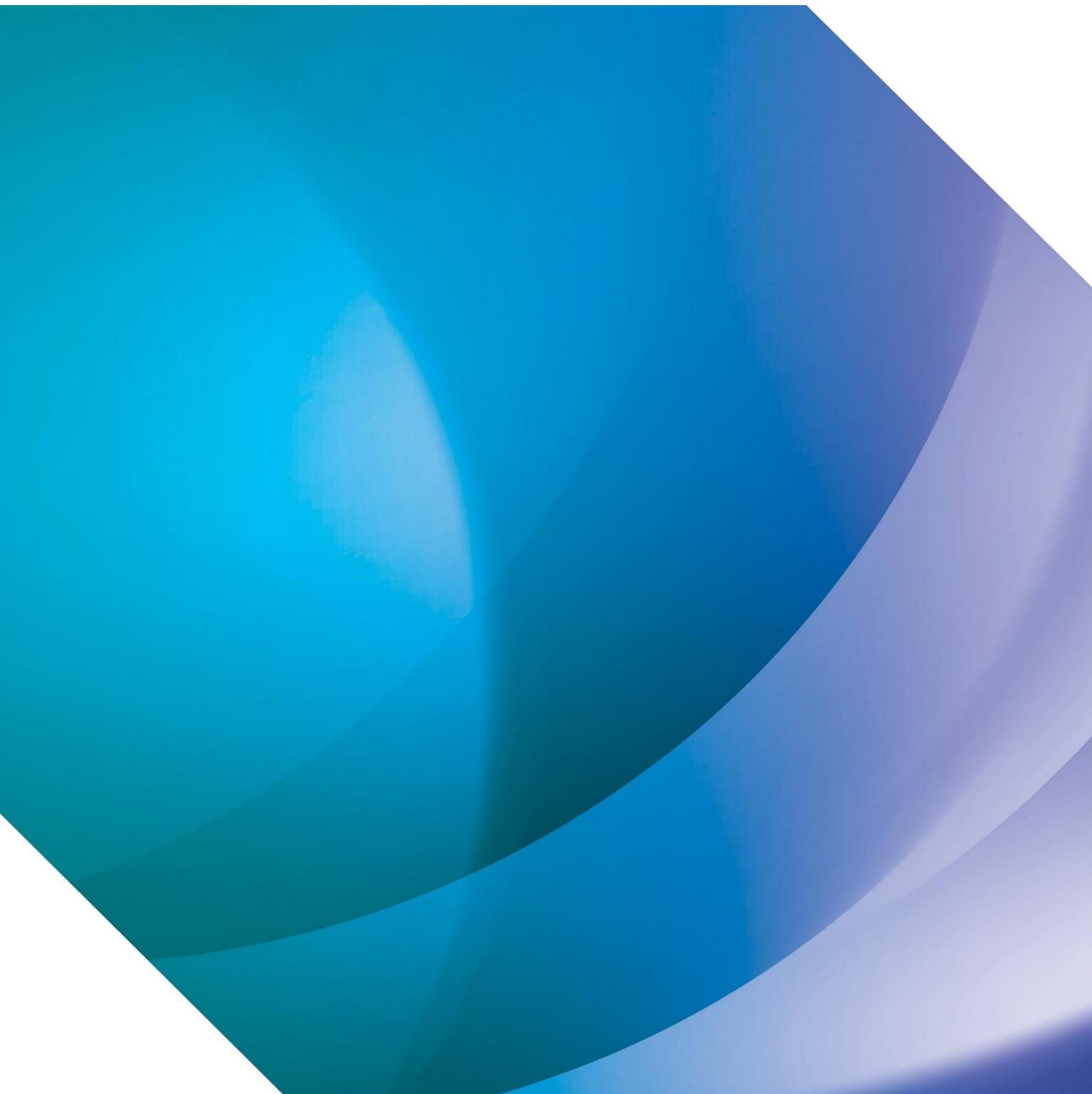


FY21/22 CAA Statutory Charges Consultation Response

CAP 2123



Published by the Civil Aviation Authority, 2021

Civil Aviation Authority,
Aviation House,
Beehive Ring Road,
Crawley,
West Sussex,
RH6 0YR.

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Published March 2021

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The latest version of this document is available online: www.caa.co.uk/CAP2123

Contents

Contents.....	1
Executive summary	2
Chapter 1.....	4
Consultation submissions.....	4
Chapter 2.....	5
Our responses to the consultation submissions	5
CAA Requirement to Charge.....	5
Spaceflight	6
Market Power Determination and Safeguarding International Airline Competition	13
Airworthiness scheme	16
Personnel licensing scheme.....	18
Chapter 3.....	20
Conclusion	20

Executive summary

On 26 November 2020, we set out proposals for our Schemes of Charges due to come into effect from 1 April 2021¹ (CAP1986 – Statutory charges FY21/22: Consultation document refers). As a cost recovery body, not funded by the taxpayer, the cost of our activities must be recovered from those we regulate.

Covid-19 has self-evidently brought unparalleled disruption to the UK aviation and aerospace sectors over the last 12 months. The CAA has worked tirelessly to support consumers, Government, and industry throughout the crisis, retaining our primary focus on maintaining safety, security and consumer protection standards whilst being as proportionate and flexible in their application as possible. Given the strategically important role that aviation and aerospace will play in the UK's recovery from Covid-19 and the Government's levelling-up agenda, Covid-19 will remain our key area of focus during 2021, and undoubtedly for some time beyond. Of course, the CAA will also be maintaining all of its existing regulatory responsibilities in support of the aviation industry and will continue to establish its new capabilities following the conclusion of the UK's exit from EASA and the upcoming transfer of regulatory oversight of the Space industry to the CAA. The CAA is required to continue to recover its costs in accordance with the Scheme of Charges but has sought to minimise the impact on industry in these challenging times by only introducing amendments to the Scheme of Charges for those new activities the CAA is required to undertake.

The CAA put in place a number of cost saving measures at the start of FY20/21 to mitigate some of the effects of the downturn in variable charge income as a result of Covid-19. These included a pay reduction for the Board, Executive Committee and all staff above the median salary, cancelling the annual salary review, delayed project and capex spend, and a general recruitment freeze across the organisation.

Despite these cost saving measures; the loss of variable income (accounts for 40% of CAA's pre-covid income) created a significant funding gap in FY20/21. The DfT

¹ Excluding Spaceflight Scheme of Charges which will be published in the summer.

agreed to provide the CAA with additional funding to cover the funding gap in FY20/21 to ensure the CAA has sufficient resources to fulfil regulatory capabilities. The funding arrangements for FY21/22 are still to be finalised but are expected to continue in line with FY20/21.

As detailed in the consultation document, the CAA is not proposing to implement a general charge increase for FY21/22 or implement prior year proposals and therefore, charges will remain at FY19/20 levels.

The CAA proposed charges related to new activities which they expect to undertake in FY21/22, either as a result of the UK exit from the European Union or changes in legislation, as well as minor structural changes to the scheme.

The key changes under consultation were:

1. **EU exit** - Proposed to retain the current EU exit funding recovered through variable charges and introduce a number of charges linked to new activities the CAA will undertake following the UK-EU exit.
2. **Market Power Determination (MPD)**: Proposed that initial costs to be recovered through a fee to the requesting party and the remaining costs would be recovered through large UK airports which would vary where we determine the airport to be dominant or not.
3. **Safeguarding Competition in Air Transport** – Proposed that initial costs to be recovered through a fee to the requesting party and the remaining costs to be recovered from Type A UK airlines based on their share of Type A airline contributions paid to the CAA in the previous year (based on their variable charges).
4. **Space** – Proposed to align the Outer Space Act 1986 Satellite licencing charge of £6,500 within the Space Industry Act 2018 satellite licencing with no charges being levied for the remaining activities (Spaceport, Launch and range licensing).

The consultation period ended on 4 February 2021, by which time we had received 48 submissions from stakeholders. The main concerns have been highlighted under chapter 2 of this document.

Chapter 1

Consultation submissions

- 1.1 A total number of 48 respondents provided 48 submissions through the consultation exercise. The submission type is broken down as follows:

Submissions	No.
Personnel Licensing	26
Space	8
Airworthiness Organisations	6
Airports	4
Representative Organisations	2
Airline	1
Air Navigation Provider Service	1
Total No. of Responses	48

- 1.2 The two representative trade organisations that responded were:
- Airport Operators Association (AOA)
 - British Gliding Association (BGA)
- 1.3 Chapter 2 of the document has focused on providing a summary of the main issues raised by the respondents.

Chapter 2

Our responses to the consultation submissions

CAA Requirement to Charge

Respondents questioned why the CAA could not agree to waive all or part of its charges for FY21/22 in response to the impact the pandemic has had on the aviation industry.

2.1 The CAA is funded by levying charges on the individuals and organisations we regulate to retain the capacity and capabilities we require to fulfil our functions. This principle is underpinned by statute and is one of our legal obligations. Our statutory responsibilities and DfT instructions have been clear that we should continue to maintain our oversight of the UK aviation industry throughout the pandemic, assisting with its safe gradual recovery, and continuing with other industry critical activities such as establishing the CAA as an independent NAA following the EU-Exit.

Despite the cost savings the CAA has implemented since the start of the pandemic, the CAA has still required additional funding from the DfT to cover the extensive reduction in CAA variable and volume-based income. The level of funding afforded to the CAA is a UK Government decision, and the funding granted extends as far as to cover those costs that would otherwise not be recovered from industry due to the drop in regulatory income. In the absence of any further funding, we are therefore obligated to continue to apply our charging model to ensure cost recovery for the continued regulatory oversight of the aviation industry.

Spaceflight

Respondents requested further clarity around the spaceflight scheme.

2.2 **Background**

The Government ran two consultations; the first between 29 July 2020 and 21 October 2020 and sought view on the draft Space Industry Regulations, Accident Investigation Regulations, Appeals Regulations, associated guidance documents, and Regulator's Licensing Rules.

The second consultation ran between 13 October 2020 and 10 November 2020 and sought views on the operability and effectiveness of proposed liabilities, insurance and charging requirements.

The Government response to both of these consultations was published on the 5 March 2021 and can be viewed here:

<https://www.gov.uk/government/consultations/spaceport-and-spaceflight-activities-regulations-and-guidance>

The CAA consulted on the proposed spaceflight charges commencing on 26 November 2020 to 4 February 2021 and provided a consistent approach with the Government Consultation (Liability, Insurance and Charging).

The CAA and Government received 8 and 31 responses respectively. Many of the organisations that responded to the CAA also provided a consistent response to the Government consultation regarding charging and therefore the CAA has worked with Government in providing consistent messaging for both consultations.

However, where there have been specific questions regarding the CAA these have also been addressed below.

2.3 **Approach to charging - consistent messaging response (CAA/Government)**

There was broad agreement on the charging proposals put forward by the CAA / Government with approximately half of respondents agreeing with

the proposals, whereas around a quarter of respondents disagreed with the proposals. The remaining respondents did not provide an answer to the question.

Space Industry Act 2018 charging proposals

There was broad support for the proposal to not charge fees for spaceport, range, and launch licensing activities until 2024 as this will support the growth of the UK's launch sector. Some respondents also supported the approach on the grounds that fees should not be used to 'educate the regulator'.

A few respondents indicated that some flexibility would be required regarding the transition to a cost recovery regime for launch and related licensing. As stated in the consultation, the CAA / Government intends to review the proposals annually as the UK launch market develops. However, due to the current financial climate and in alignment with the original proposals (CAP 1986) it is expected that no charges will be levied until 1 April 2024 and full details of any future proposals will be consulted on with industry in the previous financial year to which the charges will come into force. This is consistent with how the CAA sets its charges for other industries.

Space Industry Act 2018 and Outer Space Act 1986 satellite licensing

There was broad support for the one-off charge of £6,500. Respondents indicated that it was reasonable, and its application across the Space Industry Act 2018 (SIA) and Outer Space Act 1986 (OSA) aligned with HM Treasury charging guidance (Managing Public Money), ensuring that the same charges apply to all users of a similarly defined category of service. Around a quarter of respondents disagreed with the charging proposals. These respondents mainly opposed the charging proposals for constellations but expressed support for the approach to new SIA licensing, and the one-off charge for satellite licensing across the SIA and OSA.

Constellations

There were some concerns around the suitability of the orbital charging model for constellation operators, particularly that the model would over recover licensing costs which would contravene HM Treasury's charging guidance², and could be detrimental to the UK's ability to create an attractive constellation market.

There was also some support for implementing the longer-term, flexible charging regime sooner than currently proposed.

The CAA / Government acknowledges the concerns raised by constellation operators and the revised guidance 'Satellite Licence Fees for Constellation Operators (Under OSA and SIA)' will be issued on the Government website on the 16th March 2021.

Website Link: [Licence to operate a space object: how to apply - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/managing-public-money)

Charges for licences that fall under the SIA and OSA

A few respondents asked for clarity regarding the fees for licences that fall under both the SIA and OSA (defined as 'bundled licences'). For example, where a UK company procures an overseas launch for a satellite which they intend to operate from the UK, the 'bundled licence' would refer to:

- the OSA, to authorise the procurement of an overseas launch by a UK national and
- the SIA to authorise the operation of the satellite from the UK.

The CAA / Government will charge a single one-off fee of £6,500 for bundled licences, to align with orbital licensing which occurs wholly under either the SIA or OSA.

² <https://www.gov.uk/government/publications/managing-public-money>

General comments

There was broad support from most respondents that charges should be set in line with fees in other jurisdictions to retain the UK's competitiveness. As such, the CAA / Government intends to review the charging proposals annually.

There was an objection against the removal of the fee exemption for academic institutions under the OSA on the grounds that not all educational institutes are commercialised. However, both the OSA section 4A (5) and SIA Schedule 11 section 7(2) contain general waiving powers. These powers can be applied on a case-by-case basis to waive fees for academic institutions where appropriate. The CAA / Government considers that the proposal is reasonable and will not seek to amend it.

OSA Section 4A can be found here:

<https://www.legislation.gov.uk/ukpga/1986/38/section/4A>

SIA Schedule 11 Section 7 can be found here:

<https://www.legislation.gov.uk/ukpga/2018/5/schedule/11/paragraph/7/enacted>

2.4 **Other responses received:**

Why was the CAA chosen to be the regulator for spaceflight activities and why was not industry consulted about this?

Successive Governments have followed a policy of separating safety regulation from sector promotion to ensure regulation is impartial. Therefore, the rationale behind the Government's intention to appoint the CAA as the regulator for spaceflight activities is to avoid this potential conflict of interest. There needs to be strict lines between the regulator and the Government which is both promoting and encouraging the spaceflight market through Government grants. This aligns extant HMG policy to separate safety regulation from sector promotion.

The CAA has over 45 years of aviation regulation experience and a strong track record in overseeing the aviation sector in the UK, one of the safest

in the world. Our expertise derived from regulating the aviation industry, in particular, our transferable skills in regulating launch-related activities rendered us well-placed for the regulator role for spaceflight activities. It should be noted that currently we undertake sub-orbital spaceflight regulator activities under the Air Navigation Order and this appointment will allow all the spaceflight regulatory function to sit under one regulator.

The Government has engaged with industry and stakeholders to gather their input in developing the draft regulations prior to consultation through a series of plenary sessions to discuss specific aspects of the legislation and regulation and to explain the consultation process. The Government intend to resume these following the publication of the Government response to the public consultation on 5 March 2021.

It should also be noted that the public consultation on the spaceflight regulations published by Government in July 2020 provided a further opportunity for industry and stakeholders to input their views.

How will CAA develop and maintain tech skill etc?

The CAA is taking a number of steps to ensure the right technical skills and knowledge are in place to stand up as the regulator. Principally these skills and knowledge will be sourced from three areas, (1) CAA existing Space technical capability, (2) transfer of skills and capabilities from the UK Space Agency, and (3) external recruitment to source the required skills and knowledge. To maintain and develop the technical skillsets the CAA is developing a continuous training and competency programme to ensure ongoing learning and development meets requirements and is in line with our organisational values, specifically 'Never Stop Learning'. A commitment to continuing professional development for these technical skillsets is prioritised and embedded within the CAA's organisational design for the Space Regulator.

Can you confirm that the OSA Current licensing process will be Grandfathered over to CAA?

It is our intention that, in addition to all Space Industry Act regulatory functions we will undertake the regulation of orbital activities under the already well-established Outer Space Act 1986. The Outer Space Act 1986 has governed safe and secure UK satellite operations, to date, and will continue to apply to such operations outside the UK by UK entities.

The Secretary of State for Business, Energy and Industrial Strategy retains the spaceflight regulator role for Outer Space Act 1986 licensing until the new legislation is passed in Parliament.

Is the 1 April 2021 timeline still achievable for the formal publication of this document, to provide the key partners involved in UK Launch definitive confirmation that launch fees will not be levied until 2024?

The CAA will be publishing the Spaceflight Scheme of Charges in the Summer once the Space Industry Regulations come into force. The CAA's Charges Schemes are valid for 1 year therefore the new Spaceflight Scheme will remain consistent with this approach.

As highlighted above it is proposed that no charges will be levied until 1 April 2024 for activities that fall under the Space Industry Act 2018 (excluding Satellite licensing – as detailed above).

We hope that the transfer of charging powers from the UKSA to the CAA does not mean any decline in the administrative and competitive workability of Regulatory, Guidance, and Supporting documents.

The CAA and UKSA have been working closely to design a charging strategy that is fit for purpose once the regulator is in place. Both organisations will ensure that any subsequent planned changes to this strategy, such as transferring powers to the CAA, will be properly communicated to industry, and implemented without compromising the functioning of licensing activity.

How will it be ensured that the £1.6m EU exit cost are NOT unfairly loaded onto SIA Activities this activity?

The £1.6m EU exit costs have already been applied to the CAA's existing Scheme of Charges in 2019/20. These costs would not be applied to the Spaceflight Scheme of Charges.

Market Power Determination and Safeguarding International Airline Competition

Respondents requested further clarity around the consultation process for Market Power Determination and Safeguarding International Airline Competition.

2.5 In December 2019, the CAA invited initial views on separate CAA charges for Market Power Determinations (MPDs) and the CAA's new role in relation to EU Regulation 712, with a view to issuing a formal consultation on these charges in early 2020. However, reflecting the significant impact of the Covid-19 pandemic on industry, we postponed that consultation and gave stakeholders the opportunity to provide views on our proposals for separate charges as part of our annual charges consultation.

Responses from our recent consultation highlighted concerns around how the MPD charges were calculated and around the recovery and allocation of MPD costs.

Respondents queried how the initial fee for Market Power Determination and Safeguarding International Airline Competition was determined and challenged whether the initial fee should be increased for the requesting party.

- 2.6 The initial application fee for MPD and Safeguarding International Airline Competition was determined by considering:
- The level of existing similar charges, in particular for work the CAA conducts on Development Consent Orders;
 - The need for CAA to recover some of the initial costs we incur when we consider an MPD request
 - The need to ensure that if we are undertaking costly complex analysis, it is proportionate to the likely consumer detriment we are addressing
 - The CAA believes the fee is significant enough to ensure that requesters are acting in good faith.

Respondents requested further clarity around the recovery and allocation of MPD/Safeguarding International Airline Competition costs, with concerns that this will result in increased costs to large airports/airlines at a time they are less able to meet this increased burden due to the pandemic.

2.7 It is essential that the CAA continues to have sufficient financial resources to fulfil our regulatory functions, and to facilitate the industry's recovery, innovation and growth. Despite the very adverse impact of Covid-19 on the aviation industry, this principle still applies, and therefore it is necessary for us to recover the costs of carrying out work on MPDs.

We note that we will not recover costs until we restart formal work on the MPD. The costs that we incurred before we formally paused this work have not been incurred by large airports.

We will also be mindful that it may be the case that there are competitive impacts of greater spare capacity on the market power of airports as a result of Covid-19. We will consider how to ensure that any MPD is proportionate to the circumstances. In particular, this may mean that due to such circumstances, it may be practicable for us to complete an MPD for less than the cost range we have previously estimated. If such an approach proved appropriate, we would allow airports to make significant savings compared to the costs indicated in our earlier consultation.

We have proposed a 75/25 per cent split of the MPD costs, depending on whether the relevant airport is found to be dominant, because this allows for the spread of costs across large airports, in the case that an airport is found not to be dominant. We consider that it would be inappropriate and disproportionate to include airports that serve under 5 million passengers per year into scope of this charge, as they are much less likely to be subject to an MPD, and we are not required to carry out an MPD, if a request is received.

Respondents asked if the CAA had an insight into the likelihood and frequency with which future MPD requests might be raised.

2.8 It is difficult for the CAA to predict the volume of MPD requests that might be made in the future, given the large number of factors that will determine this which are outside of CAA control. This is why the CAA has sought to introduce a mechanism that will enable its cost recovery when an MPD arises, as opposed to an ongoing general charge.

Respondents challenged whether an MPD should be funded by government, similar to how the Competition and Markets Authority (CMA) is fully funded by HM Treasury.

2.9 CAA is obligated to recover its costs under the Civil Aviation Act from the industry it regulates on a user pays basis.

Respondents questioned whether the CAA has considered the risk of airlines using an MPD as leverage against airports.

2.10 The purpose of MPD is to ensure that airports do not have excessive power and the £50,000 initial fee should act as a sufficient deterrent to ensure that any MPD requests are submitted in good faith.

Airworthiness scheme

Design Organisation Approvals (Part-21 Subpart J)

Respondents questioned whether the CAA still intended to charge the transition and annual oversight fees for Design Organisation Approvals in line with the fees previously consulted on and published in the Scheme of Charges due to concerns that the proposed 202% uplift on EASA charges is excessive.

- 2.11 The transition fees for Design Organisation Approvals set out in the Scheme of Charges and subject to industry consultation in November 2018, were set at the time to enable full cost recovery of the new Design & Certification (D&C) capability, that the CAA was required to stand up following the UK exit from the EU. There were a set of assumptions in the calculation of the transition fee in 2018 based on the best information available at the time. These included an estimate on resource requirement at the point the capability was stood up, and an expectation that the timing of the EU-Exit would require a full year of costs to be recovered through the transition fee before the Annual Oversight fees then became effective.
- 2.12 The CAA has now reviewed the costs of the D&C team in FY20/21 and can confirm that due to the phasing of recruitment over the year, the resource costs for this period are lower than previously anticipated. It has also been agreed with the DfT that industry should not be required to fund the set up costs for this new capability in readiness for the UK exit from the EU. With the State of Design responsibilities being assumed by CAA on 1 January as opposed to 1 April, as expected when the charge was set, it has been agreed that the costs that pre-date the 1 January 2021 shall not be recovered through this transition charge. This will mean that the transition fee for all DOA's and ADOA's (Alternative Procedures to Design Organisation Approvals) will be reduced by a factor of 70% compared to the value that would be calculated as per the Scheme of Charges. This reduced fee is therefore a contribution to the CAA D&C costs between January 2021 and March 2021 only.

Certification Support for Validation

Some respondents questioned the setting of the initial fee for Certification Support for Validation (CSV) at £627 suggesting it was disproportionate to the amount of work undertaken by the CAA.

- 2.13 The initial fee is set with reference to the CAA's best estimate on the average amount of time taken to process a CSV application. We will however be keeping the fee under review as part of the upcoming review of all Design and Certification fees.

Part-MG to Part-CAO

Respondents questioned why a charge for transition from Part-MG to Part-CAO was being introduced when the CAA had stated it was not increasing fees.

- 2.14 The fees for transition from Part-MG to Part-CAMO and Part-MF to Part-CAO were consulted on ahead of the FY20/21 Scheme of Charges, and not including a transition fee from a Part-MG to Part-CAO was an oversight at the time. It is now intended to introduce this fee which is in line with the equivalent charges introduced in FY20/21, to both recover CAA costs for this activity and to ensure we are fair and consistent with all organisations that require a transition following the Commission Implementation Regulation (EU) 2019/1383.

Personnel licensing scheme

Flight Crew Licensing (FCL)

Respondents raised concerns around the proposed fee to transition from an EASA format FCL licence to a UK format licence within the next five years.

These concerns can be broadly grouped into three categories:

1. Can the CAA amend the policy to continue to recognise EASA formatted licences issued from the UK indefinitely?

2.15 The CAA is communicating with ICAO concerning the transition of licence format. The CAA is confident that it can re-issue the majority of licences naturally over the transition period without pilots needing to specifically apply for a re-formatted replacement.

2. Questioning the rationale for an industry charge given it is an enforced requirement on licence holders.

2.16 The CAA expects the vast majority of EU formatted licences will be replaced with a UK formatted licence during the next five years due to the normal updating of privileges and personal information. With over 80% of licences expected to transition this way over five years, there should be no requirement for most licence holders to make an application to the CAA for a UK formatted licence. It is the CAA's expectation that the fee shall therefore only be payable in the 2021/22 charge year by those that wish to transition from an EASA formatted licence to a UK formatted licence before there is any requirement to do so. The CAA will also be monitoring the rate at which licences are transitioning in the coming years, and will keep the decision to charge under review for those licences that have not naturally updated where re-formatting is required as we approach the end of the transition period.

3. Challenging the proposed fee of £77 for a Private Licence and £146 for a Professional Licence.

2.17 The proposed fee of £146 for professional licence re-issue and £77 for private licence re-issue mirrors the fee charged for the EASA conversion process introduced in 2012 from which all JAR licences were converted to the EASA format.

Air Traffic Controllers

Clarification was requested on whether Air Traffic Controller Licence holders would be charged £891 to transfer an EASA licence to UK CAA.

2.18 The £891 fee will be payable if an ATCO Licence holder applies to transfer from an EASA member state to the UK and hasn't previously held a UK licence. This is consistent with the fee for a UK based applicant as per the Scheme of Charges and is reflective of the work the CAA undertakes before a licence can be issued. If the ATCO licence holder has previously held a UK licence, then a reduced fee of £102 will be payable to transfer from an EASA member state to the UK. There is still a significant amount of administrative work to be undertaken by the CAA for these transfers, which includes verification of all licence details and confirmation of any enforcement action that may have been placed on the individuals record. The CAA will be required to liaise with and obtain this information from the state, the licence holder is transferring out of before a UK licence can be issued.

Chapter 3

Conclusion

3.1 We would like to thank all 48 respondents for their comments to the charging proposals.

3.2 Having discussed the comments received, and due consideration having been given by the CAA Board to the points detailed above, we propose to implement the charges outlined in the consultation document for the period commencing 1 April 2021 with the following amendment:

Design Organisation Approvals Transition fee

- The transition fee for all DOA's and ADOA's (Alternative Procedures to Design Organisation Approvals) will be reduced by a factor of 70% compared to the value that would be calculated as per the Scheme of Charges.

3.3 Charges will continue to be reviewed in line with the external environment.