

# How to get to an economic regulator organisationally? *Some reflections from my and the UK experience*

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# Duties set in law

- CAA: economic regulator of Air Traffic Services (ATS) before SES.
- Duties set down in law (Transport Act 2000):
- Primary duty is to maintain a high standard of safety in ATS provision.
- Additional duties:
  - to further the interests of consumers (airlines, airports, passengers and cargo);
  - to promote efficiency and economy by licence holders;
  - to ensure licence holders can finance their licensed activities.
- Duties will remain post Brexit.

# Elements of an economic regulator – 1

- Be clear why want to regulate. Where the market will not/cannot deliver desired outcomes for consumers? Can the market do more?
- Clear and justiceable duties for the regulator, but without being too prescriptive as to how detail of regulation should be done. Flexibility to adapt to changing developments
- Legal status – the regulator must be separate from those it regulates and their owners.

# Elements of an economic regulator – 2

- “Guidance” from States must be published
- Clear source of funding
- Some merit in ‘joined up’ regulation across aviation.
- Economic regulation is not new, or confined to ATM. Learn and employ staff from other sectors

# Closing remarks

- Industry priorities change and advance – regulatory framework **and** the regulator need to be flexible enough to be ready for this.
- Accountability – ATS is relatively low cost, but high value to aviation industry. Regulator should hold Service Provider to account for delivery.
- Regulator needs independence and credibility to use its tools effectively and proportionately.
- This means clear objectives and duties; robust means of resourcing; and ability to recruit teams with diverse skills and experience.

**Additional material**

# Transport Act 2000 – CAA’s duties



## Transport Act 2000

CHAPTER 38

### ARRANGEMENT OF SECTIONS

PART I  
AIR TRAFFIC  
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AIR TRAFFIC SERVICES

UK regulatory framework  
comprises the primary  
legislation, plus 126 page  
economic licence  
([www.caa.co.uk/natslicence](http://www.caa.co.uk/natslicence))

## 2

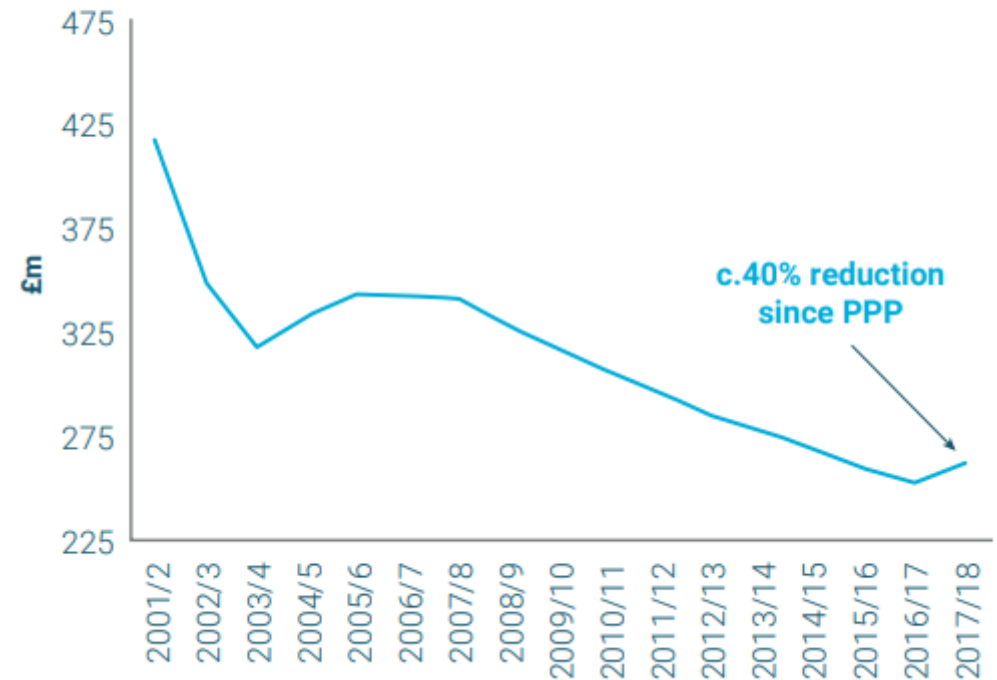
### CAA's general duty.

- (1) The CAA must exercise its functions under this Chapter so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5).
- (2) The CAA must exercise its functions under this Chapter in the manner it thinks best calculated—
  - (a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;
  - (b) to promote efficiency and economy on the part of licence holders;
  - (c) to secure that licence holders will not find it unduly difficult to finance activities authorised by their licences;
  - (d) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification);
  - (e) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section.
- (3) The only interests to be considered under subsection (2)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.
- (4) The reference in subsection (2)(a) to furthering interests includes a reference to furthering them (where the CAA thinks it appropriate) by promoting competition in the provision of air traffic services.
- (5) If in a particular case there is a conflict in the application of the provisions of subsections (2) to (4), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.
- (6) The CAA must exercise its functions under this Chapter so as to impose on licence holders the minimum restrictions which are consistent with the exercise of those functions.
- (7) Section 4 of the **M1** Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the performance by the CAA of its functions under this Chapter.

# Performance since privatisation

- NATS (En Route) Plc – known as NERL – was privatised in 2001. Prior to that it was part of the CAA and operated on a cost pass through basis like other European ANSPs at the time.
- The (NERL) chart on the right shows the impact of economic regulation – and separation of the provider from the regulator – on underlying operating costs since privatisation.

Real underlying operating costs in £m (2008/09 prices)



Source: NERL RP3 business plan