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cc Lawrence Hoskins,
Commercial Director

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Dear Sir/Madam

Set out below are NATS' responses to the consultation document "Emerging Issues" published in July 2005; answers to questions and issues of a specific technical nature are set out in the attachment.

NATS recognises the economic arguments set out in the July 2005 Consultation Document "Emerging Issues" and in the original 2002 Review by Professor Martin Cave. In particular application of Administered Incentive Pricing (AIP) could be used as a tool to ensure efficient and effective use of the Spectrum.

However, for reasons stated below, we do not believe that in the context of the provision of air traffic services, making AIP the primary mechanism for achieving efficient use of the Spectrum is a practical option. As the paper points out the introduction of trading and liberalisation and creating a spectrum market has implications for public sector access to and use of the Spectrum. In this context safety cannot be compromised. Therefore for the following reasons a pricing system designed to change NATS' behaviour or invest in a particular way might have no relevance:

- The life-cycle for items like ground-based primary radar will cover a number of years and a lot will depend on the stage in the investment cycle. For example if an air traffic services supplier has just committed to a particular programme it will not be in a position to change.
- Safety and airspace regulation will affect the type of infrastructure required.
- European requirements under the Single European Sky such as SESAME means that UK air traffic services providers will not be in a position to act unilaterally.
- NATS En Route Plc is fulfilling a number of the UK's international obligations on behalf of HMG and spectrum is key to these activities. It could

therefore be argued that HMG should ensure spectrum is available for these activities, e.g. through administrative assignment as identified on p11 of the Emerging Issues document.

In addition to the above there is the issue of regulatory burden. The UK already levies regulatory charges on its air traffic services providers and which providers in other States do not have to bear. Therefore any further increase in its regulatory burden could adversely affect NATS' and UK's competitiveness as compared with its fellow European ATC operators including the ability to provide the European hub for international air traffic and control of aircraft for trans Atlantic flights.

As the consultation paper points out the CAA currently manages the frequency management aspects for civil use of aeronautical radionavigation (radar) bands. In addition there is a significant shared use of primary radar between NATS and the MoD which is managed on a contractual basis.

In conclusion, NATS considers that AIP could have a part to play but it is unlikely to have a direct benefit on Spectrum usage. This is because of the fixed nature of the infrastructure in the medium term and the effect of decisions taken in international fora which are outside the direct control of air traffic services providers like NATS. We note the possibility of adopting a band manager approach through Ofcom in co-operation with other licensees; this is something that NATS would wish to pursue.

Finally, it should be noted that NATS' is itself subject to independent economic regulation with most of its revenue price capped through the charge control set out in the licence issued to NATS En Route Plc (NERL). NATS is currently in the process of a five year regulatory review by its Regulator. In its response to that review NATS has argued that the costs associated with use of the Radio Spectrum should be treated as a pass through. NATS would therefore ask that if it is decided to introduce a revised pricing structure for the radio spectrum, any changes would be introduced on a gradual basis, and not before 1 January 2011 which would be the start of the new control period.

We would be happy to discuss any of the points raised.

Yours sincerely,

John Perry