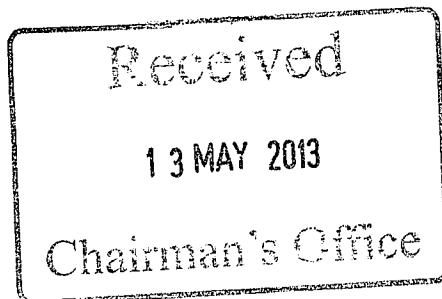




Department
for Transport

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From the Minister of State
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08 MAY 2013

Dear Mr Haines

CAP 1004 – SINGLE EUROPEAN SKY – MARKET CONDITIONS FOR TERMINAL AIR NAVIGATION SERVICES IN THE UK

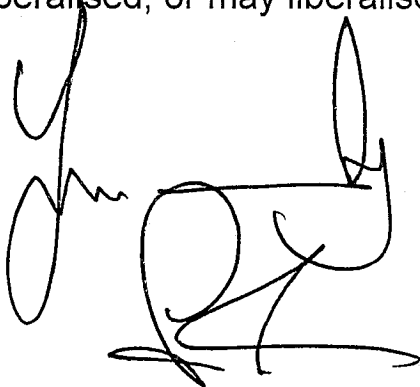
Thank you for your advice under Section 16(1) of the Civil Aviation Act 1982 on the titled subject. I accept the CAA advice that the balance of available evidence presented in the report does not currently support the existence of Market Conditions for those airports with more than 70,000 IFR movements and supports the wider summary of the CAA's advice as set out on Page 10 of CAP 1004.

As you know, since your report was published, NATS submitted further evidence by e-mail of 17 April 2013. I understand that, at this stage, the CAA advice is that neither the recent development with the Birmingham contract or the prospect of NATS offering undertakings changes the overall advice to DfT and that it is too premature to assess the impact of either development on whether they would materially affect Market Conditions as defined in the EU Charging Regulation. I accept this advice, but should be grateful if the CAA would keep these developments under review and report to the DfT if at such time these may alter any conclusions in your report.

I note your advice that the conditions for contestability are evolving and my officials will keep this matter under continuous review and ask for a revised report when it becomes appropriate to do so.

We now need to work together, with NATS, other air navigation service providers, and stakeholders, to ensure that market conditions are established and realised where possible for terminal air navigation services in the UK. We will also need to engage with the European Commission to support the development of a contestable market across Europe which would, in the longer term, present significant commercial opportunities for UK companies. Your staff have agreed to continue their active engagement with NATS and other stakeholders to fully understand the implication of the CAA's advice under the European Air Traffic Management Performance Scheme and my staff would also wish to be actively involved in progressing this work.

Your advice results in unavoidable and unfortunate level of regulatory uncertainty for service providers, particularly NATS, and the Department would strongly support the CAA in its intention to avoid regulatory interventions that could frustrate the achievement of competitive markets or affect the level of service provision for terminal air navigation services. We would also see as very positive the CAA's desire to take proactive steps in order to strengthen the prospects of market conditions in the future, specifically in the UK but also across Europe, and for it to keep abreast of developments in the rest of Europe to learn lessons from other markets that have liberalised, or may liberalise, such as Spain and Sweden.

A handwritten signature in black ink, appearing to read 'Simon Burns', with a stylized flourish at the end.

THE RT. HON. SIMON BURNS