

## GAAlliance Response to the CAA Charges Consultation Process

The General Aviation Alliance (the Alliance) welcomed the opportunity to provide a response to the SRG Charges proposals advanced by the JRT.

We were also delighted to see that Appendix 1 of the consultation report often presents our concerns verbatim as representing the core concerns about many key issues.

However, the Alliance was disappointed by the substance of the outcome of the consultation process and the seeming unwillingness of the CAA to address some of the major shortcomings identified within the consultation process both by the Alliance and others.

The main concern is that despite 219 submissions, with 855 identified comments across some 183 topics the CAA response to this consultation process is to make just three changes to the charging schemes and with no indication of their intent for future years.

Notably, the CAA appears not to have responded to the weight of comments focusing on the unrepresentative nature of the JRT (which received some 98 identified comments – the largest number of comments on any issue), or the request for the SRG charge changes to be delayed in order to assess the impact of ongoing reviews surrounding GA activity (which is mentioned in two separate topics – rather than being accorded a topic of its own – both of which received 59 and 39 similar comments).

There are also a number of detailed comments that the Alliance feels that the CAA has not responded to. Attached as Appendix A is a spreadsheet detailing the individual response as submitted (column 1), the CAA's interpretation thereof (column 2) and their response (column 3). In particular we would refer to:

- 1) The general issue about the lack of representation of air sports in the JRT. The statement that *“representation was balanced across all sectors and more than fairly represented GA in terms of costs passed to and income generated from that sector”* (4.1.2 P 8), misses the point that not all aerial activity is income generating, ie commercial. It is also the case that the CAA does not appear to have presented the data to show their assessment of the impact of General Aviation on the broader economy.
- 2) The response to the Alliance view that the ongoing Strategic Review of General Aviation as well as the Regulatory Review (and arguably now the Transport Select Committee Review) of the CAA means the charges review should be set aside is not fully answered. The statement that the JRT and the SRGA are *“separate processes”* 4.1.5 (p13) is merely an opposing position, rather than a response. Indeed, the fact that CAA response 4.1.5 highlights that when these reviews are *“complete in the early part of 2006...they may be reflected in future charging proposals”* highlights the reasons why such a substantial revision in the charging base should await the completion of the reviews.
- 3) There was also a failure by the CAA to respond to our concerns about the lack of a commitment to future savings. Although the response document used almost 3 pages of the 15 page total to justify CAA efficiencies (largely repeating material in the JRT report), there was no additional focus on any “RPI minus” formula going forward –despite the impact of EASA removing a number of CAA functions.
- 4) We were also concerned by the way that worries about the lack of an economic impact assessment were dealt with. Although the CAA response document admits that there were many worries about the potential impact on pilots, airfield and aviation organisations from the charges there was no clear evidence presented. Indeed, the CAA response highlights that only three areas of impact were examined in detail, namely AOC operators, airfield licensing and maintenance organisation approvals. Even then, there was no “dynamic” analysis of the future impact of the changed charging structure.

We remain of the view that the Cabinet Office guidelines on the need for an RIA have not been correctly followed. An extract of the regulation follows and which we consider should be applied as there is an effective change in policy by the transfer of costs from one sector to another and the impact on those affected is considerable. There should also be a “small firms test” applied:

“Note that the RIA should be **proportionate** to the likely impact of the proposal. For example, if the proposal is likely to affect only a few firms, many firms to a very small degree, or if the costs and benefits are likely to be small, then the RIA can be quite short. Where the impact is likely to be substantial, more data and depth of analysis will be required.

**Even in cases where there is no overall net change but some kind of redistribution (such as in cases where there is an exchange or ‘transfer’ of costs and benefits) the effects should be assessed through an RIA.”**

- 5) We were also somewhat concerned by the way that the CAA summarised the discussion of the nature of “cross-subsidies” as *“Cross-subsidies should not be totally eliminated - a way of life in any form of “taxation” (4.1.3)* since none of the reported responses contained in Appendix 1 suggested this form of words and this phrase tended to “trivialize” the view. Indeed, there appeared to be no response to our concerns raised about the charging principles of “user pays and the beneficiary pays principles”.
- 6) There also appeared to be no response to the fact that 2005/6 was the base year for cost comparisons – preventing meaningful comparisons with the charges that the Alliance members had previously paid.
- 7) We also noted that although our concern about the lack of some of the detailed annexes in the JRT was reported, it was not addressed. Also, it was reported as having only been commented on one submission, while we know that the PPL/IR Europe submission also mentioned this as did that of Dr I Harnett, making us question the degree to which the numbers quoted for comments are accurate.
- 8) The way in which the Helios report was dismissed is of considerable concern... *“The timescales given to the consultants were not likely to be adequate for a complete critique to be developed” (3.4 p6)* was astounding, given that all the bodies that had paid for the study had accepted the findings presented as a fair and accurate representation of the current position.
- 9) We are also concerned with the statement that *“In considering its response to the consultation, the CAA has paid particular attention to the strength of feeling amongst its charge payers...”* (Executive Summary page 1 and 5.4 p15).

This suggests that responses from individuals were taken less seriously – again suggesting that economic power may have influenced the decision making process.

G A Alliance  
(IH/PRD)  
3rd November 2005

APPENDIX A

Does the CAA consultation response answer the GAA consultation paper?			
GAA Consultation Paper		CAA Response Paper	
	Column 1 GENERAL POINTS	Column 2 How the CAA presented the concern	Column 3 The CAA Response
Summary	A foundation of GA/Sports and Recreational Aviation response to the proposals is the inadequacy of consultation to any democratic standards and especially those required by government in respect of published best practice. Therefore all aspects of the JRT report and its proposed implementation should be open to consultation and subject to agreed amendment.	Concerns about the consultation process per se were not highlighted as one of the eight "main issues" - although some reference was made to this in section 4.1.1	4.1.1 In establishing the Cost & Charges Joint Review Team, and by providing a 12 week consultation period for industry comment it is considered that the CAA has explained the proposed changes to the cost recovery process in sufficient detail so as not to require in addition a formal RIA.
1	Inadequacy of consultation with GA/Sports and Recreational Aviation and failure to develop the impact statements a responsible and equitable assessment would require.	3.2.2 The membership of the Joint Review Team (JRT) did not reflect the interests of the GA community – "no taxation without representation". (CAA response 4.1.2)	Section 4.1.2 suggests "The representation was balanced across all sectors and more than fairly represented GA in terms of costs passed to and income generated from that sector. The General Aviation scheme contributes £0.2m - 0.3% of CAA's income, whereas the large AOC operators contribute £27m, nearly 40% of CAA's income. At the outset of the review it was agreed that BBGA liaise with and brief the GA community." <b>Implicitly, the economic impact (which is not quantified in the JRT report did not warrant greater inclusion despite AOPAs inclusion on the SFRAC)</b>
2	GA Strategic and Regulatory reviews invalidate the JRT report which, as a minimum, should be set aside until those reviews are finalised	3.2.5 The charges proposals consulted upon should not be implemented until the findings from the various General Aviation reviews have been concluded. (CAA response 4.1.5)	4.1.5 summarises the four outstanding reviews and goes on to state "It is intended that these reviews will be complete in the early part of 2006 in order that they may be reflected in future SRG charging proposals. It is the CAA's belief that these reviews and the charging proposals are two separate processes and do not accept that they should be mixed". <b>NOTE : the fact that the reviews "may be reflected in future SRG proposals" undermines the case that the JRT process and the reviews should be treated separately.</b>
3	Failure to meet stated objectives need to be addressed as part of 2 above.	3.2.4 The whole level of CAA efficiency needs reviewing – increasing charges is not the answer. (CAA response 4.1.4) 3.2.6 The Government should provide more funding towards the additional costs resulting from the transfer of responsibilities to EASA. If EASA is taking over responsibilities why are Airworthiness and Personnel Licensing charges still rising? (CAA Response 4.1.6) <b>NOTE - The request for Government support re EASA was only from ONE response Appendix 1. 8 General 13 rather than the 42 responses on delaying any changes in PLS charges until EASA takes over Appendix 1. 10 General) P18</b>	4.1.6 As the CAA transfers responsibilities to EASA, the Government has allowed the CAA to utilise its accumulated reserves to fund certain short term transition costs. The charges that the CAA will levy in the coming 15 months will be for only those activities for which the CAA remains responsible either as a national requirement or as a Competent Authority for EASA. - <b>NOTE this does not appear to answer the concerns raised</b>
4	Economic and social benefits of GA/Sports and Recreational Aviation are inadequately considered.	3.2.1 There would be a significant impact on the GA community with some small organisations, airfields and pilots withdrawing from the industry and consequently the CAA should have conducted a formal Regulatory Impact Assessment. (CAA response 4.1.1)	<b>There is NO assessment of the impact on the GA community contained in the response within 4.1.1 .</b> There was, however, extensive justification why the "CAA did not undertake a formal Regulatory Impact Assessment" P6. Indeed, while the response document states that the proposals were made in response to the JRT which "comprised representatives of all sectors of the aviation industry" P7, it highlights that it only undertook impact analyses for three areas: AOCs, Aerodrome Licensing and Maintenance Organisation Approvals.
5	It is noted annexes key to a proper evaluation have been omitted; consultation is again compromised.	This item was not addressed in the response document	

	GAA Consultation Paper	CAA Response Paper	
	Column 1 DETAILED POSITION POINTS	Column 2 How the CAA presented the concern	Column 3 The CAA Response
1	<b>GA/Sports and Recreational Aviation representation.</b> The lack of GA/Sports and Recreational Aviation representation on JRT is crucial. Equally there was no representation from licence holders or flying instructors despite the "principle criteria ... to have a broad spectrum of aviation interests involved".	see 3.2.2 - JRT composition	The lack of economic impact means representation was not required - implicit in 4.1.2
2	<b>Strategic Review of GA in UK and Comprehensive Review of Regulatory approach to GA.</b> The fact that the CAA has announced this review, which is welcomed, should halt the changes to the charges scheme in order to allow a considered assessment of the pressures facing GA before any changes are introduced.	see 3.2.5 SRG Charges delay until reviews completed	See comment on 4.1.5 above - CAA see issues as separate - despite admitting that the reviews might influence future SRG charges
3	<b>Failure to meet objectives – commitment to cost savings.</b> Suggestions in respect of stated objectives (2 & 3) covering efficiency improvements represent a minor section of the report and are incomplete or inadequate.	see 3.2.4	4.1.4 The CAA devotes almost 3 pages of the 15 page response to justifying its own position and efficiency (which had only 13 responses) - while giving less than half a page to the JRT composition which received 98 comments. Despite this it still fails to give a commitment to cost savings in the future.
4	<b>Impact Assessment.</b> The JRT only examined the cost implications to the CAA. There was no economic impact assessment of the "ability to pay" across the various sectors impacted by the changes. TSuch an impact statement should also consider economic, social, safety and cross interest effects; it is not unreasonable to expect the Government, through DfT and CAA, to lead on that in the interest of the British aviation communities	There was no explicit response to the lack of Economic Impact Assessment - other than to suggest it was not necessary 3.2.3 presents this case - somewhat erroneously as - "Cross-subsidies should not be totally eliminated - a way of life in any form of "taxation" (4.1.3) - NOTE None of the reported responses contained in Appendix 1 suggested this view	4.1.3 Misonceptions in respect of treatment of cross subsidies. The current proposals represent a very small step towards a position where the GA community pays its share of the cost of safety regulation, a position that GA has been aware of for many years. The CAA has ensured and will continue to ensure that the proposals will not place an unmanageable burden on the GA community. NOTE - This view is NOT supported by any data other than a conjecture that the costs are "an average 0.3% of the organisation's turnover". Clearly this does not reflect the position for individuals.
5	<b>GA/Sporting and Recreational Aviation decline and burden:</b> The increased cost burden to GA, Sport & Recreational Aviation, arguably with the highest costs sector in the world, further increased via the new charging structure, is likely to inflict major economic hardship, to both industry and recreational activity. This is evidenced by the ongoing decline of activity at GA airfields as shown by CAA figures, with a fall in private movements of 30% since 1997 recorded at airfields with above 10,000 private movements.	The context of the charging regimes is not explicitly investigated	see section 4.1.3 above
6	<b>Cost Restructuring exercise only.</b> It appears clear that the JRT review was a cost restructuring exercise by the regulator and the larger industry bodies without proper consideration of the non-represented smaller players. Of course it is the business of industry to reduce its costs by whatever legal means is at its disposal. But it is the duty of the regulator to ensure that "charges shall be cost related, fair and reasonable" (Para 3 Charging Principle 3). By presenting this report to its board, the regulator has singularly failed in this duty.	See Representation issues above (3.2.2.) There were detailed comments on specific issues (section 3.3)	5.4 Following due consideration by the CAA Board in respect of the points detailed above, the CAA proposes to implement the charges outlined in the consultation document for the period commencing 1 January 2006 and concluding on 31 March 2007, with the following amendments: • Charges for Permits to Fly within the Airworthiness Scheme will increase by 10% (previously 23.1%). • Charges for the General Aviation Scheme will increase by 3% (previously 8.4%) with the exception of parachuting whose charges will remain at the previous year's level. • Aerial Application Certificates charges will increase by 3% (previously 8.4%). The lost revenues associated with these amendments will be funded from the CAA reserves.NOTE - There is no discussion HOW the board took this decision and on what economic basis the charges were decided
7	<b>Charging Principles and "User Pays or "Beneficiary Pays" argument.</b> The terms of reference based on "user pays" amounts to a "cost-plus" pricing regime, with no consideration as to the needs, or the ability to pay, of the user or the effect one group imposes on another. The concept of "beneficiary pays" has thus not been properly applied and the charging principles need to adequately represent this	There was no explicit recognition of the concerns about the charging principles in the eight "main issues" identified in the CAA response document	
8	<b>Cost Base Reference.</b> A feature of the document is that all the charge increases are benchmarked to Budgeted 2005-6 costs. At no point in the document is it clearly laid out what the charges for each area of SRG, and each user group, will be between 2005-6 to 2007-8, in comparison to each year from 2000-2004; there is an implication the charges in some areas will be even further increased	There was no explicit recognition of the concerns about the basis of the cost base used in the eight "main issues" identified in the CAA response document	

9	<p><b>Equity of the cost allocation, even if that were acceptable, is flawed, despite some attempt to create a "beneficiary model".</b> Section 5.2.4 sets out how GA Policy and advice cost are to be divided, the focus being according to the number of charge payers, regardless of how many beneficiaries they represent. Each airline is considered to be one payer, as is each individual Permit to Fly holder. Hence an individual with a CAA permit to fly aircraft pays the same share of costs as does British Airways PLC; hardly a beneficiary model. Agreement to use Available Seat Kilometres within the AOC scheme was abandoned when looking at GAD; this would transfer costs to the AOC holder</p>	<p>There was no explicit recognition of the concerns about the charging principles in the eight "main issues" identified in the CAA response document</p>	
10	<p><b>CAA SRG largely for the Commercial Operators.</b> Commercial, not Sporting and Recreational Aviation interests significantly drive safety regulation, a relationship not considered in this approach or in this report. Indeed, 70% of all airport movements recorded by the CAA in 2004 were for commercial operations, only 7% of movements related to "private" flying</p>	<p>3.2.7 The Government should determine a level playing field within the UK aviation industry (Between commercial operators and the GA community) and between the UK and rest of Europe....(CAA responses 4.1.7 and 4.1.4)</p>	<p>Despite citing 4.1.7 and 4.1.4 there was no explicit recognition of these concerns about the focus of the UK regulatory regime on Commercial rather than GA activities in the CAA response document. The closest that it comes to state that "The CAA endeavours to set its charges fairly and dproperly in accordance with its statutory objectives" and The CAA is also accutely aware that no set of chargin schems is going to be viewed as "fair" by all the of the very different aviation sectors that pay the charges (4.1.4) (p12.)</p>
11	<p><b>Commercial Profitability from Regulation.</b> It is the regulatory environment that allows airlines to extract an economic profit from UK airspace. In 2003 CAA figures show UK airlines generating £484.1m of profit (before tax). The report presents no evidence as to the proportion of total costs that the SRG charges relate to each user group, nor does it relate those charges to the profit that each user group extracts from the safety provided, a key requirement for consideration by the Civil Aviation Act</p>	<p>3.2.1 There would be a significant impact on the GA community with some small organisations, airfields and pilots withdrawing from the industry and consequently the CAA should have conducted a formal Regulatory Impact Assessment. (CAA response 4.1.1)</p>	<p>4.1.1 Gives figures of an average of 0.3% of turnover for the SRG costs. NOTE: The figures do not compare the costs to the profitability of the user groups - it is also limited to "operators for which financial information is publicly available".</p>
12	<p><b>Effect of SRG costs on demand.</b> There is no underlying data provided in the JRT document providing any evidence about how the current SRG charging structure and the alleged "cross-subsidisation" has influenced activity. Indeed, since 1982 CAA data shows that commercial movements at UK airports have increased two fold, while UK private and aero club flying has fallen back to levels not seen since 1982 (with the exception of a period in the wake of 9/11). This suggests that there is no evidence of cross-subsidisation holding back the growth of commercial aviation</p>	<p>3.2.1 There would be a significant impact on the GA community with some small organisations, airfields and pilots withdrawing from the industry and consequently the CAA should have conducted a formal Regulatory Impact Assessment. (CAA response 4.1.1)</p>	<p>There was no background data provided to show what the "dynamic" impact of any changes might be. The response did not seek to show whether fears that numbers of pilots , organisations and airfields would withdraw from aviation were valid.</p>
13	<p><b>Level Playing Field.</b> The level playing field argument requires consistency; if this principle is implemented there is no remaining argument for GA not to have the beneficial tax arrangements (specifically on fuel) enjoyed by commercial operators. GA pays £5m p.a. in fuel taxes whereas the airlines save £800m by not having to pay such taxes (per Government figures</p>	<p>3.2.7 The Governmnet should determine a level playing field within the UK aviation industry (Between commercial operators and the GA community) and between the UK and rest of Europe....(CAA responses 4.1.7 and 4.1.4)</p>	<p>The CAA reponse to this is found in 4.1.7 Airlines don't pay duty and VAT on fuel, as GA does? In a recent adjournment debate, Karen Buck MP, Parliamentary Under Secretary of State for Transport stated that "The hon. Gentleman made a point about what he sees as inequity in VAT and taxation policy. Our policy position in that field is derived from long-standing international agreements. The International Civil Aviation Organisation's policy is that fuel used for international aviation should not be subject to tax. The European members of ICAO have succeeded in getting it recognised that the policy has been called into question in some member states that impose taxes on other transport modes and other sources of greenhouse gases. However, the great majority of ICAO's member states oppose any change to a policy enshrined in many hundreds of bilateral air service treaties.' ie - Fuel tax not our problem and we are not going to recognise it as a factor since "The Governmnet declared that it [the CAA] would be a cost recovery agency."</p>
14	<p><b>Profit on Safety.</b> Cost allocation includes a 6% return on capital to the Treasury (equates to 3% surcharge on invoices), why is safety for non-commercial activities expected to make a "commercial return"? UK CAA is the only such authority in Europe, which is not subsidised, let alone being required to make a rate of return. This, for commercial operators, is effectively unfair competition, and for recreational flying an indecent burden.</p>	<p>3.2.7 The Government should determine a level playing field within the UK aviation industry (between commercial operators and the GA community) ..... In addition, the requirement for the CAA to achieve a rate of return was inappropriate – why is safety for non-commercial activities expected to make any 'commercial return'? To have any rate of return puts industry operators at a disadvantage competitively with the rest of Europe. (CAA response 4.1.7 and CAA response 4.1.4)</p>	<p>In section 4.1.4 The CAA response is simply to state "In addition, HM Treasury imposes an additional demand in so far that the CAA is required to achieve the greater of a 6% rate of return on the current cost of capital employed on all activities before interest and corporation tax charges, or break even after interest and corporation tax charges. The return, which has been a target for over twenty years... (P10). In section 4.1.7 the response is "When the CAA was established in 1972 the Government decreed that it would be a cost recovery agency. This is unlike most of the other aviation regulators that are directly funded by Government taxes or through a levy on airline tickets, aviation fuel or landing charges. Successive Governments have continued to believe in the policy that the costs of aviation safety regulation should be met by the industry and consequently only the UK Government is in a position to alter these national policy issues." Implicitly therefore the view is that it was always that way and there is no discussion of why "safety is taxed" in this way.</p>
	<p><b>Note: Section 4(1) of the civil Aviation Act 1992:</b></p>		
	<p>The subsection has to be considered as a whole; it refers to airlines and then it refers to the civil air transport industry. It confers on the CAA discretion, to be exercised reasonably. It appears that the discretion has been exercised in a certain way for 32 years and so it is questionable that its exercise in a different way, contrary to the reasonable expectations of its clients, would be reasonable. Sound development of the civil air transport industry, including GA in all its forms has required some discretion in allocation of the CAA's costs to ensure that users can have corporate aviation, ad-hoc charters of aircraft of all sizes and that training can provide a supply of pilots, ATCOs and engineers accustomed to the UK environment, to enable airlines generally (regardless if one airline claims otherwise) to have the benefit of such people free of the cost of training them.</p>	<p>There was no explicit recognition of the concerns about the Civil Aviation Act in the eight "main issues" identified in the CAA response document</p>	<p>The CAA response to this is found implicitly in 4.1.1 (P.6) "There is no change in or new regulation being proposed. There is no change in policy relating to cost recovery. The policy has been in place for a number of years .....The process of change had been initiated over a number of years via the SRFAC, with significant amendments being made to the Charges Schemes over many years, particularly in the last two years. The CAA's fees have always been constructed by way of consultation with industry, taking into account industry volumes, changes in CAA's cost base, the need to remove cross subsidies and emerging issues such as EASA. They have never been constructed on a predetermined formula;</p>