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June 21, 2024

Minister Mark Harbers
Minister of Infrastructure and Water Management
Rijnstraat 8
2515 XP The Hague
Netherlands

Dear Minister Harbers,

Re: Additional Consultation for the Balanced Approach at Schiphol Airport

The National Airlines Council of Canada (NACC) is the national association representing Canada's largest passenger airlines – Air Canada, Air Transat, Jazz LP, and WestJet. Our mission is to ensure safe, accessible, environmentally responsible and competitive air travel. We promote a world-class transportation system that is essential to Canada's prosperity. Given that a number of our members fly via Schiphol Airport, we are pleased to offer comments on the current consultation regarding Schiphol airport.

I. The Ministry Has Not Met the Requirements of the Balanced Approach Regulation

The National Airlines Council of Canada provides the following comments regarding the Ministry's failure to follow the Balanced Approach procedure:

A. The Ministry Has Not Identified the Noise Problem

The EU REG 598/2014 provides “rules on the process to be followed for the introduction of noise-related operating restrictions” “*where a noise problem has been identified* [emphasis added].”¹ To date, the Ministry has not substantiated the existence of a noise problem; it did not correctly assess the current noise situation in accordance with Doc 29 and thereby ignores that actual noise exposure is the basis of the Balanced Approach. Instead, the Ministry imposed a precondition of 440,000 aircraft movements annually before conducting a consultation and has predetermined certain measures to achieve this objective. The Ministry states that the Cabinet wishes to “change to steering on the basis of standards, aimed at continuous reductions in the future in the negative external effects of aviation ... a set of standards will need to be developed and then constantly tightened”.² Further, that “despite the use of quieter aircraft, there is still an increasing perception

¹ Balanced Approach Regulation, EU 598/2014, Article 1.

² Consultation document, March 2023, p. 7.



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of severe nuisance”.³ Yet, the Ministry has not defined the ‘negative external effects’, nor ‘severe nuisance’. As the first step of the Balanced Approach, defining the noise problem, has not been completed, it seems that the Ministry’s intent is not to solve a particular noise problem, but to ‘constantly tighten’ restrictions without limit.

Certain researchers have indicated that there has been an increase in aircraft noise annoyance⁴ over the past decades, others have found no change provided that the comparisons comprise similar and comparable noise situations.⁵ For example, the guidelines published by the World Health Organization (WHO) that were cited by the Ministry contain recommendations “based on a selection of non-representative and non-standardized surveys with results that cannot be applied to a general airport population. The recommendation is therefore unwarranted and unsupported by the reported evidence.”⁶ Despite the uncertainty and subjectivity surrounding the causes of human annoyance related to aircraft noise, today’s aircraft are 75 percent quieter than first generation jets (e.g. aircraft from the 1960s) and have on average a noise footprint that is 30-50 percent lower than the aircraft they are replacing.⁷

Per the Additional Consultation presentation held on 30 May 2024, “the first step within the balanced approach-procedure is to set a noise abatement objective.”⁸ This is fundamentally incorrect. The EU REG 598/2014 states that “*where a noise problem has been identified* [emphasis added], additional noise abatement measures should be identified within the Balanced Approach methodology” and “noise-related operating restrictions should be introduced only when other Balanced Approach measures are not sufficient to attain the specific noise abatement objectives”.⁹

³ Balanced Approach Consultation, March 2023, p. 7.

⁴ “Annoyance” in this context is often defined as “a response that reflects negative experiences or feelings such as dissatisfaction, anger, disappointment, etc. due to interference with activities”; in this case, due to noise emitting from aircraft. See, Aviation Noise Impacts White Paper, State of the Science 2019: Aviation Noise Impacts, p. 45 (available at: www.icao.int/environmental-protection/Documents/ScientificUnderstanding/EnvReport2019-WhitePaper-Noise.pdf). Note “it is difficult, therefore, to derive a simple mathematical formula that accurately represents human reaction to noise annoyance ... the two most common measurements of noise: noise generated by a single event (expressed in EPNDB) ... and cumulative noise exposures (expressed in Noise Exposure Forecast or NEF).

⁵ See, Aviation Noise Impacts White Paper, State of the Science 2019: Aviation Noise Impacts and Aircraft Noise Annoyance, Truls Gjestland, available here: https://www.icao.int/environmental-protection/Documents/EnvironmentalReports/2019/ENVReport2019_pg89-92.pdf.

⁶ Aircraft Noise Annoyance, Truls Gjestland, available here: https://www.icao.int/environmental-protection/Documents/EnvironmentalReports/2019/ENVReport2019_pg89-92.pdf, p. 91.

⁷ Request for Comments on the Federal Aviation Administration’s Review of the Civil Aviation Noise Policy, Notice of Public Meeting (Notice), 88 Fed. Reg. 26641 at 26642 (May 1, 2023).

⁸ Additional Consultation Presentation, May 30, 2024, Slide 9.

⁹ Balanced Approach Regulation, Preamble (9).



As per the EU REG 598/2014, Article 5.2, to introduce operating restrictions, the Ministry shall ensure that the Balanced Approach is adopted in respect of aircraft noise management at the airport where a noise problem has been identified. To that end, the Ministry must (a) assess the noise situation as per Doc 29 methodology to identify the noise problem (b) define the noise abatement objective for that airport, (c) consider the measures from the Balanced Approach pillars, (d) determine that these measures are not sufficient to attain the noise abatement objective, and (e) introduce operating restrictions in accordance with Article 8 of the Balanced Approach Regulation.¹⁰ Instead, the Ministry has proposed an operational restriction without adhering to the preconditions of the regulation and has imposed arbitrary caps and timelines to achieve an unsubstantiated outcome.

It is unclear if the Ministry is trying to address the *annoyance* related to aviation noise, based on a subjective human response, or aviation noise itself. It is further baffling that the Ministry's new proposed measures in the Additional Consultation focus solely on limiting certain aircraft and requiring additional fleet renewal, yet the original consultation document states quieter aircraft may not address the perceived nuisance. As the problem itself is undefined and the Ministry's measures are fraught with inconsistencies, the proposed measures, baselines, and goals appear to be therefore baseless.

B. The Ministry has Prejudged the Outcome of the Process

The EU REG 598/2014 requires “an integrated approach aimed at ensuring both the effective functioning of Union transport systems and protection of the environment”¹¹ and “recognises the value of, and does not prejudice, relevant obligations, existing agreements, current laws and established policies”.¹² Further, Member States shall ensure that they are “not applying operating restrictions as a first resort, but only after consideration of the other measures of the Balanced Approach.”¹³ The Ministry has not met these respective requirements of the EU REG 598/2014.

a. Arbitrary Timeline Limitation

The Ministry selected an arbitrary deadline of November 2024 for the implementation of measures and inappropriately excluded the consideration of certain noise mitigation measures if they could not be achieved by November 2024. The Ministry is repeating this same error in the Additional

¹⁰ Article 8 outlines procedures for implementing operating restrictions at airports. It mandates a six-month notice period before such restrictions are imposed, during which relevant authorities must provide detailed reports explaining the reasons for the restriction, noise abatement objectives, measures considered, and cost-effectiveness evaluations. The Commission may review the process upon request or independently within three months of notification receipt, ensuring compliance with regulations. Restrictions on marginally compliant aircraft involve limiting additional services six months post-notification and setting annual reduction rates based on aircraft age and fleet composition, not exceeding 25% of previous movements per operator.

¹¹ Balanced Approach Regulation, Preamble (1).

¹² Balanced Approach Regulation, Preamble (3).

¹³ Balanced Approach Regulation, Article 5(3)(d).



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Consultation stating, “the previously mentioned criterion has been adjusted to November 2025.”¹⁴ The EU REG 598/2014 does not require the consideration of a particular timeline when determining the feasibility of noise measures and it is unclear why the Ministry has imposed this artificial restriction. The arbitrarily short timeline appears to be a deliberate constraint to implement operational restrictions and to avoid consideration of other non-restricting measures. Annex A¹⁵ of the first consultation identifies several measures that could be effective by 2027, and yet, they have not been considered within this additional consultation, including:

- house insulation,
- improved navigation performance,
- local route optimizations,
- improved planning of inbound aircrafts,
- optimization of current procedures (minimize level segments, optimize climb-out speed, intersection take-offs, reduced thrust take-off etc.),
- introduction of new procedures (including RNP-AR approaches during parallel approaches),
- increase the number of continuous decent approaches, and
- increase concentration of flightpaths to minimize overall noise exposure.

In the Additional Consultation, To70 was commissioned to assess the new and updated measures only, disregarding all other measures that were presented in the additional measures towards 2027. These recent limitations placed on To70's additional consultation are very concerning. While we appreciate the urgency of meeting the November 2025 noise abatement target, the arbitrary selection of a limited set of measures undermines the integrity of the entire process.

b. Exclusion of Previous Measures

Given the change of the timeline of the noise objective, it is also unclear why the Ministry has decided to pre-select new and updated measures instead of re-assessing the 23 noise reduction measures that were presented in the first consultation document dated March 2023.¹⁶ Some of the excluded measures could have delivered noise reduction, respectively, by November 2025 and 2026 and be highly effective in terms of noise nuisance reduction in the longer term. By unilaterally dismissing certain pillars of the Balanced Approach, the Ministry is doing a disservice to the residents it seeks to serve. The Ministry is, again, proposing operating restrictions as a first resort in direct violation of the EU REG 598/2014.

By pre-selecting measures and imposing a new shortened deadline, the Ministry has railroaded the study towards a pre-determined outcome – operating restrictions. This approach not only

¹⁴ Additional Consultation, May 2024, p. 8.

¹⁵ To70 document 22.171.29, March 2023.

¹⁶ Balanced Approach Consultation, March 2023, p. 28.



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disregards the efforts invested by the industry stakeholders to find cost-effective alternatives to operating restrictions but also raises fundamental questions about the Ministry's commitment to a truly objective evaluation of all viable solutions.

C. The Proposed Reduction Percentages Have Changed Without Explanation

NACC is concerned that the Ministry has once again changed the proposed reduction percentage requirements. The Ministry commissioned To70 to establish a new combination of measures that would result in a new reduction percentage of 15 to 17% (relative to the baseline scenario) for the Lden noise abatement objective by November 2025 instead of the 20% in the initial study and the 15% in the addendum for November 2024.¹⁷

The constant change of the noise reduction percentage for the short term has an impact on the government's credibility, creating an environment of uncertainty for NACC's member airlines, and an erosion of public trust that leads us to think that the Ministry's aim is to reduce the airport's capacity by any means, instead of looking for alternative measures that have a long-term impact on noise reduction. We urge the Ministry to increase transparency regarding the rationale behind the percentage change to the noise reduction objective by Phase 2 and provide sound justification for the new threshold set, i.e. 15 to 17%.

D. The Additional Consultation Does Not Meet the Transparency and Timeline Requirements

The Additional Consultation does not meet the transparency standard established by the EU REG 598/2014 which states that Member States, "shall ensure that: (e) the stakeholders are consulted in a transparent way on the intended actions" and that if new operating restrictions may be required, "ensuring openness and transparency as regards data and computation methodologies".¹⁸ The Additional Consultation contains significant and impactful new measures not previously introduced, including: stronger differentiation of airport charges, additional fleet renewal, and excluding noisy aircraft. Per the Additional Consultation, "the objectives will be defined over 3 years" and "the final choice depends on the outcome of the ongoing impact analysis and therefore requires further decision-making"¹⁹ indicating, once again, that the objectives are undefined, are subject to change over time, and that the impact analysis is currently incomplete. It is also unclear how modifying the notified combination of measures with a 2-year target for implementation addresses the European Commission's concerns about the proportionality of the notified combination of measures and responds to the EC's query of a gradual approach.

¹⁷ See the Ministry's response letter to A4A et al., IENW/BSK-2023/150666, 12 June 2023.

¹⁸ Balanced Approach Regulation, Article 5(2)(e) and Article 6(2)(d).

¹⁹ Additional Consultation, Balanced Approach, p. 12.



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In terms of timing, the EU REG 598/2014 states, “interested parties shall have at least three months prior to the adoption of the new operating restrictions to submit comments”.²⁰ Not only does the Additional Consultation fail to meet the three-month (90 days) requirement, but the 28-day consultation period is notably short, especially considering that the new consultation contains novel and updated measures, including operating restrictions. Given the complexity and potential impact of these measures, it is important to provide the stakeholders the required minimum three-month period to conduct a comprehensive analysis and to prepare well-informed feedback to the consultation. This would allow stakeholders sufficient time to assess the adjustments to the package of measures and provide constructive and detailed responses. This unreasonably short comment period of 28 days illustrates the Ministry's lack of commitment to a fair and transparent consultation process.

E. The Ministry Has Not Provided an Explanation for the Measures Within Each Phase of the Additional Consultation

NACC is concerned that the Ministry did not justify the delineation of certain measures within certain years. There is no rationale for the timeline based on short-term, medium-term, and long-term targets, the feasibility of solutions, or on the basis of stakeholder requirements. On the contrary, the Ministry set November 2025 as an arbitrary deadline due to the delay of discussions with the European Commission and included the majority of the measures in the second phase without explanation.²¹ In Phase 1, the measure is considered to only apply to KLM²² and the Phase 3 consultation will be conducted at a later stage. The Ministry provided no explanation as to how the Ministry considers this timeline as a gradual approach.

F. The Ban on Chapter 3 and 4 Compliant Aircraft is Non-Compliant with the EU REG 598/2014 and the Chicago Convention

The ban of aircraft with cumulative margin lower than 13 EPNdB during nighttime impacts Chapter 3 and Chapter 4 aircraft. The ban on Chapter 3 and Chapter 4 aircraft at night is inconsistent with the established framework of the Balanced Approach Regulation and ICAO standards.

It violates ICAO Resolution A35-5 by not adhering to the Balanced Approach, disregards procedural requirements outlined in the EU REG 598/2014 for the withdrawal of compliant aircraft, and imposes unjustified economic and operational burdens. Consequently, the ban lacks legal justification and should be reconsidered in light of international aviation law and procedural fairness.

G. Capacity Reduction has Been Demonstrated not to be the Only Option

²⁰ Balanced Approach Regulation, Article 6(2)(d).

²¹ Additional Consultation, Balanced Approach, p. 13.

²² Additional Consultation, Balanced Approach, p. 9.



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Under the Additional Consultation, the Ministry includes new and updated measures that aim to achieve a new reduction percentage of 15 to 17% (relative to the baseline scenario) for the Lden noise abatement objective by November 2026. NACC and its member airlines are concerned that the Ministry did not consider KLM's preferred alternative package of measures that meets the Ministry's initial noise targets for the 24-hour period (20%) as of November 2026, and at night-time (15%) from November 2024,²³ while being more balanced, reasonable, and cost-effective through fleet renewal and operational measures only. Instead, the Ministry preferred introducing only KLM's measure to using quieter aircraft at night. This shows the Ministry's deliberate intention of introducing capacity reduction through restrictions.

It is important to highlight that KLM's proposal is a joint effort with experts from other sector parties (Air France, Airbus, BARIN, Corendon Airlines, Delta Airlines, Easyjet, NLR and TuiFly) to identify possible packages of measures that comply with the Balanced Approach principles.²⁴ This joint effort demonstrated that the noise abatement objective can be met in two years' time, at the latest by November 2026. Unfortunately, the Ministry has opted to focus on introducing capacity reduction instead of reducing noise most cost-effectively.

H. Arbitrary Selection of the Cap on the Number of Night Movements

In the initial consultation, two night caps were assessed, and proposed to consultation, i.e. 29,000 vs 25,000. In the notification document, the proposed night cap was changed into 28,700,²⁵ and in the additional consultation, the new proposed night cap is 27,000.

NACC does not understand the rationale of this continuous change in night movement restrictions. The latest To70 study confirms that this is a deliberate intention from the Ministry to "only include a measure that reduces the number of movements during the nighttime to 27,000 in the combination of measures".²⁶ This demonstrates the pre-determined approach of the Ministry to implement a night restriction and raises concerns about the decision-making process, which is clearly not based on the Balanced Approach.

I. The Consideration of Pillar 2 and Pillar 3 of the Balanced Approach is Missing

The additional consultation demonstrates the unwillingness of the Ministry to reduce the noise through the Balanced Approach. We are disappointed that the measures from Pillar 2 and Pillar 3 have not been considered, whereas they have been proven to be of great efficiency at other major airports.

²³ Cleaner, quieter and more economical, Reaction KLM Group in consultation Balanced Approach Schiphol, June 2023, Main Document, Section 125, p. 34.

²⁴ Cleaner, quieter and more economical, Reaction KLM Group in consultation Balanced Approach Schiphol, June 2023, Main Document, Section 61, p. 17.

²⁵ Notification Document, page 41

²⁶ To70 Balanced Approach Study Addendum Doc. 23.171.37, page 8.



II. Response to Specific Elements of the Additional Consultation

NACC provides below responses to the specific elements of the Additional Consultation as requested by the Ministry.

A. The Intended Gradual Approach

NACC supports a phased approach; however, setting unrealistic short deadlines for each phase without a justification or rationale for the respective timeline undermines the benefits of this approach. The Ministry has proposed setting a brief time horizon for Phase 1 and Phase 2 – i.e. two years from November 2024 until November 2026 – which is not a gradual phase-in of measures. As noted above, the Ministry has not considered all relevant measures as part of the Balanced Approach and the government will not be able to fully address the noise concerns in the most cost-effective way.

The Ministry has again selected an arbitrary short deadline for the implementation of measures and artificially excluded the consideration of many noise mitigation measures on this basis, but included operating restrictions instead such as aircraft ban, night movement cap and annual movement cap. It has also dismissed measures that were included on the longlist (Table 5.1 - Consultation document March 2023) but deemed not to be feasible by November 2024, even though these measures may be preferable or more effective over a longer period. This negates the beneficial impacts of having a phased approach and demonstrates that the focus of the Ministry is capacity reduction, instead of seeking a balanced approach to reducing noise impact.

The feasibility of the proposed measures as of November 2025²⁷ is not aligned with the European Commission's intent for a gradual approach. A critical evaluation of the proposed timeline for noise reduction raises concerns about its achievability. There is no phasing of the implementation of the proposed measures nor a long-term timeframe for the implementation process, but only a division of the implementation date of the measures. The compressed deadlines for Phases 1 and 2 necessitate the implementation of most of the measures including the operational restrictions in Phase 2. However, by expanding the timeframe of Phase 1 and Phase 2, the Ministry would allow sufficient time to implement pillar 2 and pillar 3 measures, which would have greater noise reduction in the long term than the proposed quick win measures and would avoid the unnecessary operations restrictions. This approach would allow for a more comprehensive and potentially less disruptive implementation, and process and would answer the definition of a gradual approach.

As per the Ministry's proposed gradual implementation, the majority of the measures must be implemented by November 1, 2025, i.e. less than 1.5 years after this additional consultation. The period between the end of the consultation (June 21, 2024) and the intended introduction of the

²⁷ Additional Balanced Approach document, page 9



measures (November 2024 and November 2025), has not been extended under the amended pack of measures as required by the gradual approach, but has become shorter (November 2024).

The choice of a short time horizon ignores for example noise abatement procedures that will reduce noise emissions and affect the cost-effectiveness of the proposed measures. This is evident from the consultation itself: the government acknowledges that several additional measures could be effective by 2027, yet they are dismissed without further consideration. Additionally, the period of time for achieving the objectives is not sufficient to allow autonomous developments to be properly taken into account.

The EU REG 598/2014 requires implementing operating restrictions *only as a last resort*. Therefore, implementing measures in a phased approach would constitute good practice if the defined timeline set a realistic timeframe for the entire implementation process, with clear milestones for each phase.

B. The New and Adapted Measures Proposed to Achieve the Noise Abatement Objective

a. Use of Quieter Aircraft During at Night

While deploying quieter aircraft at night is a commendable effort by the national airline, the impact on their network cannot be understated. Restructuring will likely result in a reduction of optimal use of fleet capacity, longer transfer times, inconvenient operations schedules, and potentially the use of less profitable aircraft on specific routes, increasing the costs for the national airline. This will also undeniably compromise the convenience and profitability of certain destinations and flights. The shift from night flights to day flights would result in some transfer passengers having longer changeover times, leading to higher travel costs.

It is crucial to remember that this measure was originally proposed as part of a comprehensive package. Implementing it in isolation, without considering the other measures of the national airline's plan, is an undeveloped decision that was derived through an incomplete process that will create market distortion.

Moreover, since the Ministry acknowledges that other airlines operating at Schiphol Airport cannot participate in such nighttime optimization efforts²⁸, it follows that only the national airline would be subject to compliance with this measure. Consequently, this measure is rendered non-compliant with the EU REG 598/2014 which stipulates that "operating restrictions shall be non-discriminatory, in particular on grounds of nationality or identity, and shall not be arbitrary".²⁹ This measure outlined in Article 5.6 is crucial for upholding principles of fairness, equality, and transparency in the regulation of aviation noise. By mandating that operating restrictions be non-

²⁸ Additional Consultation, page 9

²⁹ Balanced Approach Regulation, Article 5.6.



discriminatory, particularly regarding nationality or identity, the regulation promotes a level playing field for all operators and stakeholders in the aviation industry. Discriminatory practices based on nationality or identity can undermine competition, distort market dynamics, and hinder the free movement of goods and services within the European Union. Regulatory actions and decision-making processes which are grounded in sound reasoning, evidence, and adherence to established objectives help to foster trust and confidence among stakeholders, including airlines, airport operators, and local communities.

Additionally, the implementation of this measure by November 2024 is demonstrably impracticable. The proposed implementation time is within four months, and airlines schedules for the 2024/2025 winter season (W24/25) have already been finalized. By the time this measure could be implemented, there would be insufficient time for airlines to effectively reschedule and replan their operations to comply with the measure.

Finally, the EU REG 598/2014 prevents the implementation of this measure as "before introducing an operating restriction, the competent authorities shall give to [...] the Commission and the relevant interested parties six months' notice, ending at least two months prior to the determination of the slot coordination parameters as defined in point (m) of Article 2 of Council Regulation (EEC) No 95/93 (1)" ³⁰ for the airport concerned for the relevant scheduling period. In this case, neither of the two conditions can be met. Therefore, the measure becomes again non-compliant with the EU REG 598/2014.

For the reasons above, in our opinion, this measure should be disregarded.

b. Stimulate use of quieter aircraft through stronger differentiation of airport charges

We express our strong reservations about the inclusion of this measure in the proposed package. Our review of the analysis carried out by Decisio and Beelining clearly shows that this measure offers no cost effectiveness and has extremely limited noise reduction potential. In addition, its applicability is extremely narrow, targeting only 893 S1 movements out of a total of 397k annual movements in 2022.

Given this limited scope and questionable effectiveness, the decision of including it in the new pack of measures does not conform with the EU REG 598/2014, which states, "*Member States shall ensure that, when noise-related action is taken, the [following] combination of available measures is considered, with a view to determining the most cost-effective measure or combination of measures*". ³¹

Article 5.3 holds significant importance as it underscores the necessity for a thorough and systematic approach to addressing noise-related concerns in aviation. By mandating Member

³⁰ Balanced Approach Regulation, Article 8.1.

³¹ Article 5.3 of EU REG 598/2014



States to consider a comprehensive range of measures when implementing noise-related actions, the regulation promotes a holistic and evidence-based decision-making process. This ensures that efforts to mitigate aircraft noise are not only effective but also economically efficient. By evaluating various measures and their cost-effectiveness, Member States can identify the most suitable strategies for noise reduction while optimizing resource allocation. This provision fosters responsible stewardship of environmental and financial resources, contributing to the sustainable development of aviation infrastructure and operations.

Finally, airport charges at Schiphol are already differentiated based on the noise production of the aircraft. Schiphol distinguishes 7 categories of aircraft. We strongly believe that a stronger differentiation of airport charges to incentivize greater uptake of quieter aircraft will not affect airline behaviour regarding fleet.

For the reasons above, in our opinion, this measure should be disregarded.

c. Additional fleet renewal

The proposed additional fleet renewal requirement (in addition to autonomous renewal) is contradictory, incomplete, and the Ministry has not completed the requisite cost-effectiveness analysis. First, it is unclear if the Ministry considers additional fleet renewal to be a formal noise abatement measure. In one instance the Ministry states that “additional fleet renewal, includes the fleet renewal that takes place on top of the autonomous development ... [and is] therefore, part of the new package of measures.”³² Yet, the Decisio report states that “fleet renewals therefore should not be confused with measures to reduce noise at Schiphol. As fleet renewals cannot be considered as measures, no additional costs apply.”³³ As the cost-effectiveness analysis of the additional fleet renewal has not been completed, we cannot sufficiently comment.

The Ministry has not met the standard required by the EU REG 598/2014 for cost-effectiveness. The EU REG 598/2014 requires members states to “ensure that: (c) the likely cost-effectiveness of the noise mitigation measures is thoroughly evaluated”.³⁴ Yet, the Additional Consultation notes that for additional fleet renewal, “this measure has been calculated as part of the combination of measures, hence the individual results have not been calculated yet and an estimation of the impact has been presented”.³⁵ The Decisio analysis states that “any additional costs or cost-effectiveness for fleet renewal” were not calculated “as investment decisions for fleet renewal have been made years ago.”³⁶

³² Additional Consultation, p. 10.

³³ Decisio, p. 25.

³⁴ Balanced Approach Regulation, Article 5(2)(c).

³⁵ Additional Consultation, Balanced Approach, p. 11.

³⁶ Measuring the cost effectiveness of noise-mitigating measures for Schiphol Airport, 2nd addendum to initial report, 22 May 2024 (Final), p. 25.



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Airlines have reduced the number of people exposed to significant levels of aircraft noise primarily by reducing noise at the source (i.e. purchasing quieter aircraft), which required billions of dollars of investment. It is unclear to us if fleet renewal is an official measure under the Additional Consultation, and if so, why such investments would not be considered as part of the cost-effectiveness analysis.

Regardless of this confusion, the standard required by the EU REG 598/2014 has not been satisfied and the Ministry needs to conduct a thorough evaluation. For these reasons, this measure should be disregarded.

d. Minimize the use of the secondary runways between 13:00 – 15:00

We strongly oppose the ministry's updated restriction on secondary runways usage, applicable between 13:00 and 15:00 hours.

First, there was no prior technical cooperation with LVNL. Any reduction in the use of secondary runways must be carefully coordinated with LVNL, and requires technical cooperation between airport operators, aircraft operators and air navigation service providers. The selection of the peak time for airlines where there are very few available slots on primary runways was decided by the Ministry without any consultation, raising serious concerns about its legality and effectiveness in achieving the noise reduction objectives.

Second, this measure will lead to a greater use of primary runways without increasing the capacity of these runways, which will result in delays and other operational inefficiencies, including cancellation of flights, leading to an irreversible negative effect on network connectivity. This is without mentioning the increase in taxi times, as well as journey times for certain flights, resulting in an increase in operating expenses for airlines, travel time costs for passengers, and emissions to the environment's air quality.

The associated cost-effectiveness analysis underestimated the cost impacts on airlines by excluding the costs of delays, if we consider that according to EuroControl research, the average cost of a 1-minute flight delay is €100. Additionally, it failed to assess the impacts on climate (CO₂ and non-CO₂) and local air quality (NO_x and PM₁₀) and considered them as inexistent (Slide 15 of Decisio and Beelining's cost-effectiveness document). And most importantly, it didn't consider the cost impact of delays on the EU network connectivity.

Finally, as per LVNL measures testing in Annex V to the first consultation document, this measure is feasible provided the following pre-conditions are met, and any resulting implications are accepted:

– *Conditions*

- i. For safe feasibility: adjustment of the traffic supply to the available handling capacity per hour;*



- ii. *Adjustment of the capacity declaration to balance the available hourly handling capacity and the traffic supply;*
 - *Implications*
- iii. *Disruptions and associated delays last longer;*
- iv. *Increase in the use of a fourth runway in the event of disruptions;*
- v. *Extra CO2 emissions as a result of longer flight paths and more flights.”*

However, the measure has been introduced without the required adjustments, which makes the measure impractical and disproportionate.

In conclusion, the Ministry’s updated restriction on secondary runway usage during peak hours shows a blatant disregard for the principles of the Balanced Approach, and the recommendations of LVNL. The lack of consultation with LVNL on this additional consultation, the selection of a peak time with limited slot availability, the demonstrably underestimated cost-effectiveness analysis, and the irreversible negative impact on network connectivity, all point towards a poorly conceived measure that is not compliant with the Balanced Approach principles.

e. Ban aircraft with cumulative margin lower than 13 EPNdB during nighttime

As noted above, the ban of aircraft with cumulative margin lower than 13 EPNdB during nighttime impacts Chapter 3 and Chapter 4 aircraft. Under the EU REG 598/2014 requirements, Chapter 4 aircraft are neither categorized as marginally compliant, nor can they be banned.

While the implementation of this measure in other airports suggests “an apparent selected mitigation measure”,³⁷ the Ministry should prioritize its compliance with EU REG 598/2014, and recognize the principle enshrined in the Balanced Approach that “measures available for management of the noise situation will vary depending on the unique circumstances of the airport”.³⁸ Therefore, effective noise reduction measures should be adapted to the specific circumstances of Schiphol airport. Simply implementing a Chapter 4 ban at another airport, regardless of its international hub status or cargo orientation, does not automatically translate into its suitability at Schiphol airport.

Moreover, Article 8.4 of the EU Regulation 598/2014 requires a tailored approach that balances environmental concerns with operational realities, i.e. “Where the operating restriction concerns the withdrawal of marginally compliant aircraft from an airport, [...] the Member States shall ensure that the competent authorities decide on the annual rate for reducing the number of movements of marginally compliant aircraft of affected operators at that airport, taking due account of the age of the aircraft and the composition of the total fleet. And without prejudice to Article 5(4), that rate shall not be more than 25% of the number of movements of marginally compliant aircraft for each operator serving that airport”. The imposition of this requirement on marginally compliant aircraft logically entails its application to Chapter 4 aircraft.

³⁷ Balanced Approach study Schiphol Airport, 23.171.37, May 2024, page 8.

³⁸ ICAO Doc. 9829 Guidance on the Balanced Approach, Article 3.6.1.



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This is crucial for airlines to allow them adequate time to adjust their fleets and prevent excessive disruptions of aircraft operators. On one hand, fleet replacement is a gradual process, and airlines need a significant lead time to adapt their fleets. On the other hand, significant disruption and economic hardship may result from an immediate ban on these types of aircraft by November 2025.

Additionally, on one hand, according to ICAO Resolution A35-5, the phasing-out of Chapter 3 aircraft is permissible only if it is done following a Balanced Approach to noise management. If the ban was implemented without a comprehensive Balanced Approach, then, the ban lacks the necessary legal foundation as it bypasses the mandated procedural and consultative steps required for implementing such restrictions, and it disregards the economic considerations that are central to the Balanced Approach. The lack of economic impact assessment further highlights the arbitrary nature of the decision, making it legally indefensible.

On the other hand, the ban of Chapter 4 aircraft at night is inconsistent with the established framework of EU REG 598/2014. The regulation defines "marginally compliant aircraft"³⁹, forbids withdrawal of marginally compliant aircraft from airport operations that comply, through either original certification or re-certification, with the noise standard laid down in Volume 1, Part II, Chapter 4 of Annex 16 to the Chicago Convention,⁴⁰ and outlines its withdrawal rate and criteria.⁴¹

Chapter 4 aircraft are neither categorized as marginally compliant under the EU REG 598/2014, nor can they be banned without the EU REG 598/2014 withdrawal process. Any attempt to ban these aircraft without following the EU REG 598/2014 withdrawal process undermines the applicable regulatory framework and constitutes non-compliance with established international standards. The Chapter 4 aircraft, being fully compliant with noise standards, should not be subjected to operating restrictions without a justified and procedural basis as outlined in the EU REG 598/2014.

The EU REG 598/2014 outlines specific procedures for the withdrawal of marginally compliant aircraft, including detailed criteria and a phased withdrawal rate. These procedural safeguards are designed to ensure that any operating restrictions are implemented fairly and systematically, avoiding arbitrary or discriminatory actions.

The imposition of a ban on Chapter 3 and Chapter 4 aircraft at night, without following the stipulated EU REG 598/2014 withdrawal process, represents a procedural violation. Such an action is arbitrary and capricious, lacking the necessary procedural due process. By circumventing the established withdrawal rate and criteria, the ban disregards legal requirements and principles

³⁹ Balanced Approach Regulation, Article 2(4).

⁴⁰ Balanced Approach Regulation, Article 5.5

⁴¹ Balanced Approach Regulation, Article 8.4



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of administrative law, making it susceptible to legal challenge on grounds of procedural non-compliance.

f. Cap the number of movements during the nighttime to 27,000 movements and the annual movements to 460,000 – 470,000 to meet the noise abatement objectives

The new caps on nighttime and annual movements are against EU Reg 598/2014 Article 5.3(d) requiring Member States “*not to apply operating restrictions as a first resort, but only after consideration of the other measures of the Balanced Approach*”.

In this third addendum of the proposed “noise mitigation measures” of the Balanced Approach, the Ministry is still considering movement reduction as the only solution to reduce noise, disregarding land use planning and management and noise abatement procedures as alternatives. This is proven by the fact that in response to the European Commission request to examine whether a more gradual approach to achieving the noise abatement objective was possible, meaning using the same proposed measures of the notification document, the Ministry proposes a third addendum of measures including new capacity restrictions numbers without any justification to meet the capacity reduction target.

The combination of an annual cap on night movements of 27,000 with a reduction of annual movements to 460,000 – 470,000 will have irremediable consequences across all airline types (passenger, cargo and leisure) and not only limited to the removal of historic slots from airlines, but also impact on bilateral air services agreements. The Ministry has not demonstrated substantively how the cap of 27,000 has been determined, moreover what is its cost effectiveness.

We are very concerned that the Ministry has not provided credible data to explain how the reduction of annual movements has been determined. Further, it strains belief that the announced 460,000 – 470,000 movements from 2025 somehow result in a capacity that is exactly the same as that contained in the Experimental Decree – which was withdrawn in response to claims of breaches of the US-NL Open Skies Agreement, the ICAO Balanced Approach as incorporated into EU law, and other applicable regulations. It is therefore very difficult to see this as anything but reinstating the Experimental Decree through the back door.

Finally, Article 5.6 of EU Regulation 598/2014 requires “measures or a combination of measures taken in accordance with this Regulation for a given airport not to be more restrictive than is necessary in order to achieve the environmental noise abatement objectives set for that airport”. In this case, on one hand, the proposed night cap at 27,000 is more restrictive than necessary since it exceeds the night objective by a margin of 7.2% for the number of houses within the 48 dB(A) Lnight contour and 3.6% for the number of severely sleep disturbed people within the 40 dB(A) Lnight contour. On another hand, since the objective for reducing noise at night would be achieved and exceeded at the end of Phase 2, Phase 3 imposing further measures at night from 2026 has no justification for implementation.



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Other than constituting a clear violation of the EU REG 598/2014, it also demonstrates the arbitrary selection of the thresholds by the Ministry, without scientific or noise-oriented justification.

III. Conclusion

The current new set of mitigation measures has raised additional concerns for our industry. We believe it does not respond to the EC's concerns on the proportionality of the measures in relation to the targeted implementation deadline of November 2024. Besides, the proposed gradual implementation plan does not present a gradual approach, in which the noise objective is achieved gradually over several years.

NACC's member airlines remain committed to addressing aircraft noise at Schiphol airport, but any effort to do so must follow the Balanced Approach Regulation to ensure that the assessment of noise issues at the airport, identification of a noise objective, and selection of any measures to address aircraft noise are achieved through a fair and transparent process. Most fundamentally, the process cannot be driven by a predetermination that annual operations must be reduced to a certain level.

With the recent change in political leadership, we believe there's an opportunity to establish a more collaborative approach. We propose opening a comprehensive consultation process from the beginning of such initiatives, involving all stakeholders, including policymakers, airport management, local communities, and industry representatives. This will ensure a solution that considers the needs of all parties involved and is compliant with applicable regulatory requirements.

Thank you for your attention to this matter, and consideration of our perspectives.

Yours truly,

Jeff Morrison
President and CEO
National Airlines Council of Canada