



ACI EUROPE response to the European Commission Consultation on the application of Council Regulation (EEC) 793/2004 on common rules for the allocation of slots at Community airports

GENERAL COMMENTS BY ACI EUROPE

ACI EUROPE is grateful for the opportunity to contribute to this timely consultation, crucial to developing the Commission thinking in the context of addressing the capacity shortage at some European airports. As rightly stated in the introduction to this Working Paper, it is the objective of this Regulation *“to ensure that scarce capacity of slots at congested Community airports is managed and used efficiently”*. We believe that it is important to add a further objective: to maximise the benefit to consumers from a seamless and efficient aviation system. The objective of improving competition and benefiting the consumer, however, has been achieved so far mainly through changing market forces and effective airline strategies rather than through the measures of Regulation 793/2004.

Congested airports report different degrees of impact of this Regulation, due to different market and capacity characteristics. In this respect, ACI EUROPE highlights the value added of Regulation 793/2004 in having allowed the introduction of local rules to flexibly improve the slot allocation process and this assertion has been confirmed by the European Civil Aviation Conference (ECAC) which adopted in December 2005 guidance material on the application of local rules for slot allocation at airports.

The challenging scenario of “capacity crunch” in the coming years, as foreseen by EUROCONTROL/ECAC estimations, calls for improvements in airport capacity and usage. As part of this, the Slot Regulation could be improved through three key amendments to the existing measures:

1. Strengthening the use-it-or-lose-it rule to 90/10
2. Providing the option for the Member States to replace or make less prescriptive the ‘new entrants’ priority (which is considered ineffective and creating negligible impact on competition) by provisions to promote ‘effective competition’, basing the slot allocation procedure on a range of objective criteria. The criteria could be implemented by locally-developed priority rules which seek to optimise the efficient use of the limited capacity at that airport.

3. Protecting the opportunity for airports to introduce slot reservation fees.

Our response should be read alongside the responses provided by individual ACI EUROPE Members, whose particular experience can add valuable insights on these issues.

New entrant

The definition of 'new entrant' has been amended in order to strengthen the provision of air services to regions and on intra-Community routes as well as to increase potential competition at congested Community airports.

Questions

To what extent has the new entrant rule promoted competition on intra-Community routes?

To what extent has the new entrant rule encouraged the development on new routes?

To what extent has the new entrant rule facilitated new entrants in obtaining slots at congested Community airports?

Questions

To what extent have the provisions with respect to new entrants encouraged new entrants to apply for slots under the new entrant rule?

To what extent have the provisions with respect to new entrants encouraged new entrants to effectively use the slots for route development in a sustainable manner

Consolidated response to questions in paragraph 1.1 ("New entrant") and in paragraph 1.3 ("Slot mobility")

According to the European airports the 'new entrant rule' has had scarce or either no real effect on competition and on the effective use of existing capacity. Opportunities for locally tailored rules are preferred by the airport industry to promote consumer benefit and make the best use of existing capacity. The main drawback of the 'new entrant' priority is that it allows new airlines to create a negligible presence at an airport, leading to a range of small operations. This simply does not provide effective competition in today's aviation market. This phenomenon is accentuated by the relatively scarce capacity of slots available in the pool (especially after the re-timing process has been completed). Instead, effective competition is more often generated by global alliances and no-frills carriers, both of whom are usually too large to benefit from the 'new entrant priority'.

Subject to the principle of transparency and non discrimination, locally developed rules would better ensure the best use of capacity for services to and from the airport. To improve the existing legislation, the 27

Member States should have the right to opt-out to the new entrant rule, instead approving local rules tailored to specific needs of the airports concerned. This right would prevent situations whereby a strict implementation of the new entrant rule basically undermines the main objective of the Regulation, i.e. the effective use of scarce airport capacity.

It appears to us that any air service which might fall within the definition in Article 2(b)iii would already fall within the definition of Article 2(b)ii.

The role of the coordinator

The regulation has assigned the coordinator increased responsibilities and authority to deal with slot abuse. Member States therefore have to ensure that the neutrality and independence of the coordinator is unquestioned.

Questions

How have the Member States ensured that the coordinator is functionally separated from any single party?

How have the Member States ensured that the coordinator acts in a neutral, non-discriminatory and transparent way?

ACI EUROPE leaves the answers to these questions to the competent authorities (Member States and coordinators). However, we would ask you to refer to the responses made by individual ACI Europe Members to these questions.

1.1. Process of slot allocation

The provisions with regard to the slot allocation process, as laid down in article 8 of the Regulation, have been strengthened in order to make better use of the existing slots at congested airports, whilst at the same time maintaining compatibility with worldwide procedures.

Question

In what way have the provisions promoted and increased the efficient use of airport capacity?

Article 8 of Regulation 793/2004 has improved to a limited extent the efficient use of airport capacity.

Whilst the use-it-or-lose-it rule must remain, it does allow air carriers a large margin for not using slots (20% of capacity allocated to them) without being subject to any sanctions or penalties. **This margin must be reduced by raising the slot usage rate to at least 90% in order to require air carriers to make best use of limited airport capacity.** Airlines failing to achieve 90% should be required to return slots to the slot pool, allowing these slots to be re-allocated to air carriers that can achieve a high utilisation of scarce airport capacity.

Another measure that should be formally accepted at EU level is the **slot reservation fee**. If holding a slot incurred a cost it would dissuade airlines from overbidding for slots or hoarding slots and encourage them to use the valuable capacity they have been allocated or hand slots back as early as possible for re-use. A reservation fee could provide such an incentive to air carriers, by levying on air carriers such a fee, for each slot prior to the scheduling season starting, as a commitment to using the allocated capacity. In the case that the slot is operated, the reservation fee would be used towards paying for the airport charge. If, however, the slot was not operated (either due to late hand-back or 'no show'), the air carrier would not be reimbursed the reservation fee. Instead, the accumulation of fees over the season could be used to lower airport charges for air carriers using the airport. Introducing such a measure through a local rule or a restructuring of airport charges may encounter in many circumstances the opposition of the airlines. However, the objective benefit that such a scheme would bring to the system and the consumers through a more effective use of airport capacity shows the importance of formalising it at EU level.

1.2. Enforcement

The enforcement provisions of article 14 have been introduced to maintain the integrity of the slot allocation system. The provisions assign enforcement authority to the Air Traffic Management (ATM) authorities and the slot coordinator and lay down rules that ensure that Member States introduce effective, proportionate and dissuasive sanctions or equivalent measures that prevent slot abuse.

1.3. Questions

To what extent have ATM authorities made use of the power to reject flight plans in case an air carrier intends to make use of an airport without having a slot?

The airport industry reports its general dissatisfaction with regard to the impact of the enforcement rules applicable to promote a proper use of airport slots. There has been little, if any, interest in creating procedures which could lead to the power being used by the ATM authorities. Any revised EU regulation should mandate ATM organisations to create processes to reject flight plans in the event that an air carrier does not have an airport slot.

Furthermore, ACI EUROPE would like to reiterate the importance of ensuring consistency between airport slots and flight plans in a systematic manner, as rightly acknowledged by the EC Communication on airport capacity. As stated in the same Communication on airport capacity "Article 14 of the slot Regulation could be modified in such a way that the competent air traffic management authorities are compelled to reject an aircraft operator's flight plan whenever an air carrier does not hold the required airport slots". ACI EUROPE now fully expects EUROCONTROL, having received in 2005 a mandate to develop implementing rules on ATFM, to pursue this issue rapidly.

To what extent have slot coordinators made use of the power to withdraw slots from air carriers that repeatedly and intentionally operate air services outside the allocated slot times?

Such an important power has been rarely used so far by the coordinator. The airport industry expects the coordinators to use this power significantly, if needed. However, the effects of this power should be re-assessed at some future point.

How did Member States introduce measures to deal with slot abuse?

Although it is too early to understand fully the effects of these measures, the airport industry is confident that they will have a positive effect on slot utilisation.