ACI EUROPE
AIRPORTS COUNCIL INTERNATIONAL

Airport Slot Allocation

ACI EUROPE POSITION PAPER

Updated March 2025

1. Introduction

1.1 Slot allocation is an essential part of capacity management at airports in Europe. Airport slots are used to manage congestion and accommodate flight demand in a way that optimises the use of airport capacity. At airports where demand outstrips capacity, an airline wishing to operate is granted a slot by an independent coordinator, giving permission to take off, land, and use airport infrastructure for the route and day requested.

1.2 Europe's airports are particularly affected by this regime, with Level 3 airports (those where a slot is required for an airline to operate) most prevalent in Europe. In the Summer 2025 scheduling season, 113 of the 218 Level 3 airports worldwide will be in Europe, with 89 Level 3 airports in Europe for the Winter 2024 season out of 194 worldwide.

1.3 Any slot regime needs to be balanced and provide certainty to airports and airlines that schedules can be stable from one season to the next to the extent that this stability supports the efficient use of capacity. It should allow airline competition to develop and new markets to be served and ensure non-discriminatory capacity allocation through independent coordination and proportionate rules that adapt to the congestion level at airports. It must ensure efficient use of airport capacity, facilitate connectivity for regions served by airports, competition between airlines, and be transparent in its operation.

1.4 However, the aviation market is continuing to grow, increasing airport saturation. It has developed in unthinkable ways when the current Regulation was adopted. This process has accelerated post-COVID. In particular, as airline business models have diversified, airports themselves have become competitive businesses in their own right, with an increased focus on efficiency and profitability. At the same time, air connectivity has acquired a new strategic relevance for Europe and the regions served by the airports, along with the need to limit aviation's negative externalities – in particular, environmental impacts.

1.5 It is, therefore, essential that the slot allocation system better reflects the available capacity and expected future increases at European airports, is more suited to the current and future air transport market and fully recognises the need to develop air connectivity to the socio-economic benefit of regions served, while limiting environmental impacts. A paradigm shift is thus required in order for the slot allocation regime to balance the legitimate interests of all stakeholders for the benefit of consumers, regions

and the environment.

1.6 Therefore, ACI EUROPE is calling for a revision of the EU Slot Regulation (Regulation 95/93) to adapt it to market changes in the past 30 years and to prepare the slot allocation system in Europe for the future. ACI EUROPE believes that the following elements should form part of a revised Regulation:

- There is more scope to ensure that slot allocation considers airports' economic and connectivity strategies and the related needs of their local markets.
- Ensuring that airlines make full and proper use of the slots allocated to them and promptly return unwanted slots to the pool.
- Strengthening the new entrant rule will deliver greater competition at Europe's airports and more choices for passengers, which will cater to their needs.
- Ensuring transparency in the slot allocation process.

This Position Paper sets out ACI EUROPE's proposals for achieving these goals.

2. The Current Regulatory Framework

The slot allocation system in the European Economic Area[1] is governed by Regulation 95/93/EEC, as amended by Regulation 793/2004/EC and influenced by the Worldwide Airport Slot Guidelines. The central elements of the Slot Regulation are:

- The "80/20 Rule" whereby if an airline uses a slot at least 80% of the time in a season, it will retain it for the following equivalent season.
- The allocation of slots by an independent coordinator.
- The New Entrant Rule grants certain protections and privileges to airlines, which would bring a competitive challenge to incumbents at an airport.

Airlines have the opportunity to hand back a series of slots that they do not need during the allocation process ahead of the "series return deadline", as set out in WASG 10.16. This enables the reallocation of returned slots to other airlines that may be interested in operating them. Cancellations of slots during the season can also enable such reallocation, or at least enable airports to plan their resourcing accordingly, so long as sufficient notice is given.

[1] Upon its exit from the European Union in 2020, the United Kingdom transferred the Slot Regulation into UK law.

The Regulation is silent on whether slots, once allocated, may be traded between airlines. As such, Communication (2008)227 tolerates the practice as long as it takes place transparently and is subject to all other administrative requirements for slot allocation being met.

Regulation 95/93 was clearly written in a different era for aviation, and in the three decades since, momentous changes have taken place.
These include:

- The liberalisation of the European airline industry, which has led to the game-changing rise of Low-Cost Carriers, the emergence of multi-hub and multi-airline groups, and global alliances.
- Multilateral aviation agreements between the EU and third countries.
- The development of Low-Cost Carriers at major hub airports, having previously operated almost exclusively at secondary airports.
- The development of airports as competing, corporatised, and increasingly privatised self-financing businesses focused on the development of their route network and diversified airline portfolio, as well as operational efficiency and sustainability.
- The aviation market has grown to the extent that Europe now has several totally saturated airports with no spare capacity.
- The COVID-19 pandemic revealed the inherent lack of resilience in the Slot Regulation, which required extensive waivers to accommodate the shock of the global aviation slowdown.

A proposal to revise Regulation 95/93 was tabled in 2011, which would have updated the regulation to openly allow airlines to buy and sell slots from one another, broaden the definition of a new entrant to boost competition by allowing more airlines to fall into its scope, increase the threshold for historic rights, and strengthen the independence and transparency of the coordination process. The introduction of a 'slot reservation system' would have given a more significant incentive to airlines to use the slots which they have been allocated. It would also have established a link with the Single European Sky by giving the Network Manager visibility over airport capacity and their link with the network.

This proposal has now been withdrawn, remaining blocked in the Council for the past twelve years. The market conditions that necessitated the proposal have persisted and become even more acute. The experience of the COVID-19 crisis has demonstrated that the case for reform of the EU Slot Regulation, as advocated in this Position Paper, remains valid and is even, in some respects, enhanced.

3. A Global Issue

As noted above, the EU Slot Regulation is influenced by the Worldwide Airport Slot Guidelines (WASG). The WASG sets out the slot allocation principles and procedures that should be followed in the slot system. It is managed and published by the Worldwide Airport Slot Board (WASB), which gives airports, airlines, and slot coordinators equal representation. It must be recognised, of course, that airports' goals and desired outcomes for the WASB are ambitious, but the need for unanimity in adopting updates to the WASG requires compromise on these ambitions. The WASG has its roots in the former Worldwide Slot Guidelines, which IATA developed with little airport involvement. The WASG's objectives aim to optimise the benefits to consumers, giving equal weight to the interests of airlines and airports – whereas the former WSG was focused on maximising benefits to "the greatest number of airport users", i.e. airlines.[2]

ACI EUROPE strongly supports the work of the WASB to develop the WASG in a consumer-focused manner, centred inter alia on facilitating consumer choice, fair slot allocation and balancing airline access to airports.[3] This work can influence the parallel reform of the slot rules in Europe, and vice-versa, and the existence of the WASG as a basis should not preclude the ability of European regulators to go further in adopting rules specific to the needs and challenges of European airports. Indeed, several reforms to the WASG have been made since the WASB's inception (and before that, during the Strategic Review of the WSG, which led to the WASB's creation). These reforms should be implemented in Europe, but many cannot be implemented as they are overridden by the binding and less ambitious Slot Regulation, which requires a complete revision under the Ordinary Legislative Procedure to reflect the WASG updates. Such WASG updates include the revised definition of New Entrant and an increase in the Minimum Series Length for the Summer season (see dedicated sections below).[4]

4. Market Situation

Air traffic in Europe has grown consistently in recent years and will continue to do so, increasing congestion and saturation at Europe's airports. Traffic has doubled to over 10 million annual flights in Europe in the years since the Slot Regulation was written and is forecast to reach over 16 million flights by 2050.[5] With physical space

[2] WSG 1.2.1. See also ACI World Airport Slot Policy Forums Proceedings, pp.5-6.
[3] Airports' involvement in the WASB is the direct responsibility of ACI World, actively supported by the ACI Regions, including ACI EUROPE.
[4] Some WASG updates have been adopted into the UK's Slot Regulation, as under UK legislative procedures certain revisions may be carried out using secondary legislation and therefore without the need for a full Bill to be laid before Parliament. Reforms already adopted in the UK include the revised New Entrant definition.
[5] EUROCONTROL Aviation Outlook 2050.

at a premium, airports need to use other means besides and prior to infrastructure construction to optimise the use of their capacity and adapt to current and future market needs. As such, the European slot allocation regime needs to adapt not only to today's market but also that of the coming decades. Ultimately, optimising the use of existing capacity may reduce the need for airports to increase airport charges to fund infrastructure investment.

As air traffic has grown, the structure of the airline market has developed and changed fundamentally. The years since the 2011 proposal have seen increased concentration between airlines, particularly in the form of multi-airline groups, airline bankruptcies, and the continued development & deepening of alliances through integrated Joint Ventures. This has an effect on the usage of airport capacity by potentially reducing the number of competing airlines at an airport and thus impacting passenger choice and connectivity developments. It is, therefore, essential to have slot allocation rules that enable new airlines to enter the airport market and establish a competitive position that may bring an innovative offer to passengers.

According to the EUROCONTROL Aviation Outlook 2050, demand for air traffic in Europe is expected to grow by 44% by 2050 compared to 2019 levels, and 3-12% of demand will not be accommodated by European airports in 2050. Airports in at least six European countries are expected to have capacity gaps in 2050. Meanwhile, global air traffic is expected to double by 2042, meaning that if Europe wishes to benefit from connectivity to growing regions of the globe, its airports must be able to accommodate this connectivity.

With a growing number of airports being extremely saturated, the level of saturation at these airports increasing, and many non-congested airports desiring connectivity to slot-coordinated destinations, it is imperative to allocate the available capacity in a manner that optimises and maximises its utilisation. Additionally, a significant and rising proportion of historic slots at the most congested airports may restrict airline competition if capacity cannot be liberated for new entrants to access the market.

Therefore, it is essential that Europe's slot allocation rules allow airports to address their current capacity constraints and prepare for the future, focusing on boosting competition and delivering on the legitimate strategic objectives and needs of airports and their communities. This will ensure that passengers and shippers are offered the best choice, optimum connectivity, and service.

5. Desired Reforms

5.1 Definition of a slot

Regulation 95/93, as amended, defines a slot as "the permission given by a coordinator in accordance with this Regulation to use the full range of airport infrastructure necessary to operate an air service at a coordinated airport on a specific date and time for the purpose of landing or take-off as allocated by a coordinator…"

The current definition leads to different interpretations and should be changed to stress the airline's obligation to make effective use of the permission which it has been granted. The Regulation should therefore clearly state that a slot is both the permission and the obligation to use airport infrastructure.

Slot misuse and wastage are a major problem for airports in today's congested environment, which needs to be further addressed through a robust, consistent and transparent sanctions regime set out in the Regulation.

5.2 Greater incorporation of airport priorities in the slot allocation process

Airports are competing businesses that exist to serve passengers and shippers and provide connectivity for their local and national communities. Most airports must cover their infrastructure expansion costs and manage without public funding. Indeed, EU State aid rules allow public financing only for smaller regional airports and under strict conditions. Airports, therefore, have a legitimate commercial interest in how their capacity is allocated and utilised.

As such, more significant consideration should be given to airports and their regions' strategic objectives in the slot allocation process. These may include, but are not limited to:

- Opening routes to new or underserved destinations & markets.
- Strengthening airline competition.
- Prioritising and developing connectivity for the local community by promoting strategically important markets (e.g. national capitals and essential business/inward tourism destinations), facilitating hub connections, and increasing connectivity.
- Meeting airports' sustainability goals.

To achieve these goals, the incorporation of locally defined priorities into the slot allocation system is essential. This can be realised through:

- Airport Consultation: The coordinator should consult thoroughly with the airport to understand its strategic priorities, additional criteria, and objectives.
- Coordination Committee Discussions: The airport's priorities and additional criteria should be actively discussed within the coordination committee, ensuring alignment with regional and national needs. The airport's voice should carry sufficient weight in the committee to reflect the interests of the airport managing body.
- Transparent Reporting: The coordinator should provide detailed reporting on how these priorities are applied during the allocation process.
- Additionally, the Regulation should explicitly incorporate secondary allocation criteria, granting the coordinator discretionary power to apply these criteria where appropriate, including as part of the primary allocation. This approach ensures slot allocation aligns with broader strategic goals while maintaining fairness and transparency.

5.3 New Entrant Rule

The New Entrant rule, as currently drafted, does not give sufficient room for airlines with few or no existing slots at an airport to establish a competitive foothold at congested airports. By limiting New Entrant status to carriers holding fewer than five slots on the day for which they are requesting slots or on the day in question for a particular non-stop service to an underserved destination, airlines are very limited in the extent to which they can access and develop at congested airports under the privileges granted by this status. Once the low limit of slots is reached, the airline must obtain them through "Other" requests, placing them at the bottom of the priority order and in competition with all other incumbent airlines for what may be very few slots. This threshold was increased to seven under the alleviation measures introduced during the COVID-19 pandemic (reflecting the amendments made at the time to the Worldwide Airport Slot Guidelines). However, as these measures were time-limited, has since reverted to five. The EU Regulation's definition should be aligned with that of the WASG as a bare minimum, and mechanisms built into the Regulation should allow it to adapt quickly to other WASG updates using simple implementing mechanisms.

Consideration should also be given to granting New Entrant requests higher priority in the allocation process ahead of Change-to-Historic requests. This would allow New Entrants to have improved access to any available capacity without unduly compromising the historic rights of incumbent airlines. The WASG has already made some progress in this direction by granting equal status to New Entrant and Change-to-Historic requests.

Furthermore, the reference to an “air carrier”, which holds 5% of slots at the airport or 4% “in the airport system”, is no longer fit for purpose. The growth of multi-airline groups and subsidiary airlines allows, under this definition, a carrier belonging to an airline group to qualify under new entrant status, even if its parent/partner airline already has an established presence. This allows airline groups operating several airline brands – thus effectively operating as one company - to build up a dominant position by benefiting from rules intended to enable proper and effective competition.

The 2011 proposal would have raised this threshold to 10%, as well as specifying that this applies equally to the airline’s parent company and other members of the same airline company/group, where relevant, so as to prevent abuse. The case for such a measure remains clear, particularly in light of the continued consolidation in the airline market. Airlines which are part of a joint venture covering routes operated to/from the airport should be considered under this rule, and consideration should also be given to establishing a similar threshold for alliances, albeit at a higher level.

The outdated “airport system” qualifier should be removed as part of the 2011 proposal. Airports compete for customers – airlines and passengers – even within the same city/conurbation. As such, an airline should not be prevented from seeking New Entrant status at one of a city’s airports even if it already has a presence at one of the city’s other airports, which may, in any case, serve different markets.

The Regulation should also ensure that codeshares cannot be used to abuse the New Entrant rule. It should be expected that when slots are allocated to new entrants, the latter should be the effective operators of the flights. Any deviation from this should be strictly exceptional and minimal.

The Regulation contains provisions for route-specific New Entrant status on underserved intra-EU routes or unserved routes to a regional airport. This, in theory, allows incumbent airlines at an airport to claim New Entrant status on those routes, something which need not be problematic as often those carriers may be best placed to develop the route competitively. It must be

avoided, however, that airlines use this New Entrant status to acquire prime slots by the back door and then repurpose them for use on more lucrative routes which would not meet the criteria for New Entrant. This could include retiming by moving the service on the New Entrant route to a less lucrative time of day while using the initially allocated slot for a route which does not qualify but which is more lucrative to the airline or otherwise operating the route for the minimum number of seasons required by law before changing the destination on the slot. In order to control these adverse effects, the minimum number of seasons for which a New Entrant slot allocated on an underserved route basis must be operated could be increased from the current two, and sanctions for abuse could be strengthened.

5.4 Slot Mobility

Slot mobility – the transfer or exchange of slots between airlines – is an accepted and generally positive element of the slot system, enabled by Article 8a of the Slot Regulation and WASG 8.11–8.13. It can allow schedule and capacity optimisation. However, it can also lead to wastage of capacity, mainly through slot "babysitting", whereby an airline not making use of a slot leases it to another airline which continues to use the slot in a way that may not be optimal. The basic principle of slot allocation – the use-it-or-lose-it rule – should remain the bedrock of the system and not be circumvented through practices which allow airlines to retain slots when they know they cannot be used. The leasing of slots should be minimal, avoided at best, and only for a short period when it must occur.

Secondary trading of slots is a practice with many downsides for the optimal use of airport capacity. It leads to airlines deciding among themselves how capacity is allocated and receiving financial compensation for an asset that was allocated to them for free and is arguably not theirs to sell. ACI EUROPE is, therefore, generally opposed to the secondary trading of airport slots.

Where it is permitted, there is a need for increased pre- and post-trade transparency. Airports should be able to facilitate slot trading and ensure that slot trades are feasible. A percentage of the amount paid for the traded slot should be collected for subsequent investment in airport capacity or useful investments, particularly in terms of reducing environmental impact and decarbonisation.

5.5 Historic rights & series length

It is essential that the historic rights system is strengthened in such a way as

to prevent airlines from pursuing methods to keep their slots which are contrary to their proper use. This should start with ensuring that 80% really means 80% by removing the 'double-dip'.

This is the practice permitted in the WASG 8.7.2.2 whereby airlines may return up to 20% of the slots initially allocated to them before the historic baseline date (i.e. 31 January for the summer season and 31 August for the winter season) and then not operate up to 20% of the remaining slots during the season, but receive historic rights to the full amount of slots initially allocated to them. European slot coordinators have generally stopped this practice. Therefore, this de facto abolition of the Double Dip should be formalised through an amendment to the EU Slot Regulation.

In the EU Regulation, the double-dip is enabled by Article 10(3), which states that "Slots allocated to an air carrier before 31 January for the following summer season, or before 31 August for the following winter season, but which are returned to the coordinator for reallocation before those dates shall not be taken into account for the usage calculation." This article should be amended so that only slots that have not been returned before the dates in question shall be eligible for historic precedence. Moreover, the current series return deadline should be brought forward to allow more time for the reallocation of the returned slot series, as it has been tested worldwide with positive results regarding early return and allocation of capacity.

Another way of optimising the overall slot utilisation would be to increase the series of slots in the summer and winter seasons. Currently, the minimum series in the EU Regulation for the summer season is 5 weeks, meaning that airlines must operate at least 4 slots (80%) to build history on their slot series and to keep them in the following equivalent season. In practice, a short series of 5 weeks can block the allocation of a full-season series. The minimum series length should, therefore, be increased in order to optimise slot allocation.

5.6 Addressing super-congested airports

Certain airports subject to extreme congestion should be able to apply provisions that will promote slot churn where it is desirable, preserve airline competition, and maximise the economic and social benefits generated at these airports.

At these airports, the lack of available physical capacity or stringent movement caps means that few slots are available to accommodate new

requests. As such, they remain dominated by historic slots and established operators, seeing little development of new offers or competitive pressures on incumbent airlines.

Measures to address this situation need to be specific & tailor-made to each airport, with the decision on what measures to apply taken at the local level. Some examples of such measures could include:

- Increasing the current "use-it-or-lose-it" threshold for historic slot series, e.g., from 80% to 90%, for one or both of the annual seasons (summer/winter).
- Stiffer penalties for persistently poor on-time performance and/or late handing back of slots (with a potential hand back deadline of more than three weeks).
- Introduction of additional metrics of slot use, such as requiring that the number of seats per movement in a slot series does not fall below a specified lower limit set by reference to other series serving similar markets.
- Fairer allocation, promoting connections to underserved destinations rather than increasing frequencies on already well-served routes.

5.7 Slot reservation system

Introducing a slot reservation system would provide a monetary incentive relating to the actual & effective use of airport infrastructure and discourage the late hand-back of slots by charging a fee for slots that were not cancelled by the Historic Baseline Date and not eventually used, except in the permitted cases under Article 10(4) of the Slot Regulation[6]. It would also assist in reducing excessive overbidding for slots[7], a key priority for airports to ensure accurate demand data and efficient airport resource planning, allow fair access to slots for other airlines and enable slot retiming. Implementing a slot reservation system should be revenue-neutral for the airport and administered through the existing charging system. This system would also incentivise airlines to return their slots in time to allow slot reallocation to another carrier. This would go a long way in making the best use of existing airport capacity and allocating significant blocks of new capacity. Likewise, a robust, consistent and transparent sanctions regime

[6] Odoni (2020), pp.57-58.

[7] The practice of airlines requesting more slots than they know they need or can operate, which in many cases is an understandable and regular feature of the allocation process, as airlines must keep options open until slots are secured on both ends of a route and schedules optimised. Excessive overbidding, however, can be used to gain priority in allocation and prevents other airlines from having access to these slots at an early enough stage to be able to plan their schedules/sell tickets effectively.

would serve to improve slot performance.

5.8 Link with Airspace capacity management

Slot allocation is just one of the many measures that may be used to optimise airport capacity, and it must be considered in conjunction with other elements to achieve on-time performance. This includes air traffic flow management, where predictability is required to allocate airspace capacity to flights successfully. Therefore, it is crucial that flight plans (Air Traffic Flow Management – ATFM - slot) be formally linked to the airport slot allocated for the flight and that the flight be operated in line with the slot allocated. The Network Manager should receive the relevant information allowing to link airport slots and flight plans to carry out its flow management function properly. An ATFM slot should not be granted without a corresponding airport slot.

This will also serve to cement the integration of airports into the network, overcome gaps between airports and en-route capacity, and complement the necessary efforts to complete the Single European Sky and ensure adequate provision of airspace capacity.

5.9 Airport capacity

Numerous factors combine to determine an airport platform's capacity. The available capacity is maximised when each factor is used at its optimal level, bearing in mind that increasing capacity in one area can decrease capacity elsewhere, thus reducing the overall effectiveness (e.g. increasing runway throughput without appropriate apron or terminal capacity or an efficient turnaround process). Declared capacity is, therefore, not a readily measurable quantity but an agreed 'benchmark' months before the scheduled operations take place. An airport's true operating capacity may be different when actual operations occur. Thus, the declared capacity must be set amid uncertainty, considering the full range of actual operating capacities that may materialise in practice. For these reasons, it is more appropriate to talk of "coordination parameters" – the set of factors which influence the capacity realistically available, thus avoiding the implication that the airport guarantees capacity availability.

Airports must be given flexibility in setting coordination parameters at the most optimal level in order to plan, finance, develop and grow in the most sustainable way possible whilst taking note of unique local factors that might not be replicated at other airports. ACI EUROPE recommends that Article 6 of the Slot Regulation be amended to require that the capacity analysis and methods for determining the values of coordination parameters reflect the

full spectrum of operating conditions, service levels and the public functions of the airport if these are substantiated and consulted in a multi-stakeholder environment.

Ultimately, airports are best placed to know their own capacity because of the multiple factors at play. This can be assisted by better information sharing between relevant stakeholders. An independent regulator may be allowed to approve and publish capacity declarations. Still, it should not be a general requirement. Where it is applied, there should be a formal and reliable consultation framework to ensure that eventual declarations are based on evidence.[8]

5.10 Responding to crisis situations

The COVID-19 crisis exposed weaknesses in the Slot Regulation, both in terms of its ability to adapt to sudden shocks and the effect of the measures taken to address them. While it was indeed necessary to introduce amendments to the Regulation to preserve connectivity during and immediately after the pandemic, the need to introduce new measures on a seasonal basis reduced certainty in resource planning (due to lack of clarity over the use rate in the following season, and the fact that decisions on the use rate were taken very close to the season start).

Furthermore, the initial measures (waiver without conditions) did not consider their impact on all stakeholders. In the case of airports, the fact that slots could be cancelled close to the day of operation prevented resource planning and cost-cutting measures at a crucial moment. While justified in the early stages of the pandemic, prolonged use of waivers and reduced slot use rates clearly impacted airline competition and incumbent airlines' ability to entrench their positions at congested airports. This led to airport capacity being wasted, as airlines had an incentive not to use slots, while also preventing competitors from entering the market and at the same time pursuing consolidation.

While it may be reasonable to admit that the depth and scope of the COVID-19 crisis could not have been imagined at the time that Regulation 95/93 was drafted, the lived experience and the evolution of market dynamics demonstrate a need to build much better resilience into the Regulation in case of future crises. The Regulation must be flexible enough to be able to react to such crises without the need for the Ordinary Legislative Procedure each time and the politicisation which can ensue.

[8] See ACI EUROPE Airport Capacity Position Paper and ACI EUROPE Working Paper on Setting of Declared Capacities.

It should be possible for the alleviation measures in these crisis situations to be tailored, time-limited, and with the minimum of exceptions. This should include the enabling of targeted measures on a market-by-market basis, so as to allow alleviation measures to be adapted to the most affected markets (e.g. international vs European) would guarantee the preservation of connectivity while facilitating recovery to markets where no restrictions on travel are in place. Such measures were successfully introduced in Australia and the United States, with separate measures for domestic and international traffic, and should be facilitated in future by the EU Slot Regulation. It should also be ensured that blanket slot waivers are at best avoided entirely, or at the very least limited in time to the very early stages of the crisis until necessary adjustments have been made.

5.11 Managing the consequences of airline mergers and bankruptcies

Due to the role of airport slots in managing airline access to scarce capacity, the slot system can be vulnerable to market events such as airline mergers & acquisitions – which can see the share of slots held by incumbent airlines at an airport grow massively overnight – as well as airline bankruptcies and market exits, where airport capacity can remain blocked for lengthy amounts of time due to the defunct airline holding onto slots until it is wound up, or the airline leasing slots out for sub-optimal operations having ceased its own operations at the airport. These situations are aggravated by the increasingly prevalent practices of some airlines, which book their slots as assets on the balance sheet and even use them as collateral for financing.

In the case of M&A activity (and state aid decisions), the decisions taken by competition authorities to mitigate the effects at airports often include the allocation of slot remedies. While welcome in principle, the results can sometimes be sub-optimal for the use of airport capacity due to the requirements, i.a., for the airline receiving remedy slots to continue operating specific routes which may not fit with its business plan nor that of the airport. This can lead to the airline doing the minimum to maintain historic rights until such a time as it may repurpose the slot. Decisions taken in these situations should be consistent and effective and avoid creating two parallel slot allocation systems – one the classic administrative method carried out by slot coordinators and the other emanating from competition authorities.

In the case of bankruptcies, the Slot Regulation should contain reasonable deadlines for notice and appeal periods since the insolvency procedures at

court can be slow. Therefore, slots may be held by the coordinator for long periods. Slots should be returned to the coordinator no later than sixty days from the date the airline has operated its last flight so that potentially scarce airport capacity may be released to other airlines. In the meantime, the affected slots should be released to other airlines on a non-historic basis. Series operated on a non-historic basis will be awarded priority over new requests in the subsequent equivalent season if not requested by the recovered airline or its legal successor. Coordinators should be able to withdraw the slot from the airline for good if the 60-day timeframe is not respected. Administrators operating under national bankruptcy laws should be prevented from circumventing the regular procedure for slot allocation carried out by the independent coordinator, who has exclusive responsibility for allocating and managing slots. It should be remembered that slots are, in essence, permission and obligation to use airport infrastructure, initially allocated at no cost to the airline and not intended as an airline asset.

5.12 Transparency

Transparency over the criteria applied in slot allocation and engagement between the coordinator and airport/airline stakeholders in advance of allocation is an essential element for airports to have a greater view of how their capacity is being allocated and how their strategic objectives are considered. Airports should be able to react to this information, while the allocation decision rests with the coordinator - recognising that they should not be exposed to unnecessary legal challenges. Transparency is, therefore, a necessary corollary of the independent coordination regime.

In particular, airports (and airlines) should be able to access clear explanations from the coordinator on the rationale behind allocation decisions, i.e., the criteria that have been applied, particularly when a choice has to be made between multiple slot requests. It is also essential for airports to understand which secondary criteria have been applied to an allocation, on what basis, and how they have been weighted against each other in the process. Coordination parameters should be clear and easily understandable.

Furthermore, access to data about all phases of the slot allocation process should be facilitated promptly. As interested parties, airports should have access to the various data elements listed currently in Article 4, paragraph 8 of Regulation 95/93.

This should be supplemented by a requirement, as per the 2011 proposal, for

the coordinator to submit a report after each scheduling period on the slot allocation situation—particularly with regard to historic slots and allocations from the pool. The coordinator should maintain a freely accessible online database covering historic slots, slot requests, allocations, availability of slots, and slot utilisation rates.

Access to this information will enable airports to see how their slots are being allocated and, therefore, encourage greater consideration of airport strategic priorities in the allocation process.

6. Conclusion

The EU Slot Regulation requires a revision in order to update it to a market which has changed drastically since its initial publication in 1993, and to enable future traffic growth to be accommodated within the slot allocation rules. This will serve to ensure that airport capacity is used in an optimal manner, guaranteeing airline competition at airports and allocating slots in a way which allows a more efficient and sustainable use of scarce airport capacity while at the same time serving the strategic priorities of airports and their regions.

The future EU Slot Regulation should therefore:

i) Deliver a paradigm shift in the slot allocation regime, balancing the legitimate interests of all stakeholders to benefit consumers and regional connectivity.

ii) Broaden the scope of the New Entrant Rule while removing the possibility for airline groups to abuse this rule.

iii) Allow certain extremely congested airports to apply special local provisions in the allocation of slots in the interest of competition, diversification of connectivity, capacity optimisation and maximising economic, social and environmental benefits. Member States should be able to stipulate airport-specific strategic criteria for slot allocation that coordinators would treat as primary allocation criteria at an individual super-congested airport.

iv) Strengthen the system of historic rights by better balancing the minimum series length, providing a clear definition of force majeure, removing the “double dip” and maintaining a minimum usage requirement.

v) Introduce a Slot Reservation System to incentivise airlines to hand back unneeded slots for their reallocation.

vi) Grant Member States the right to consider allowing secondary trading of slots only if they consider it beneficial to competition and capacity optimization on a local basis. This should be subject to clear rules and conditions to prevent the identified risks associated with this practice.

vii) Be agile in its resilience, allowing measures to be taken quickly and effectively in response to crisis situations and avoiding the adverse effects of the long-term use of waivers.

viii) Ensure a consistent approach to competition decisions, whether in response to airline mergers, acquisitions or state aid and prevent airport capacity from being blocked during prolonged airline bankruptcy proceedings.

ix) Ensure transparency over slot allocation decisions, particularly the application of secondary allocation criteria and slot utilisation.

Adopting these proposals will allow the European airport slot allocation regime to evolve in a manner that preserves and promotes free competition between airlines, accommodates future growth, and ensures that airports and airlines may provide optimum connectivity for consumers and local/national communities.

ACI EUROPE is the European region of Airports Council International (ACI), the only worldwide professional association of airport operators. ACI EUROPE represents over **600 airports** in **55 European countries**. Our members facilitate over **95% of commercial air traffic** in Europe. Air transport supports **14 million jobs**, generating **€851 billion** in European economic activity (**5% of GDP**). In response to the Climate Emergency, in June 2019 our members committed to achieving Net Zero carbon emissions for operations under their control by 2050, without offsetting.

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