

Business aviation- sustainable access for a growing sector

I. General Background

Business Aviation (BA) is a highly diversified sector growing almost twice as fast as the rest of the traffic (although there was some fallback due to the recent economic crisis).

BA is clearly able to offer some services and advantages which scheduled airlines cannot provide. It could operate city-pairs for which scheduled alternatives are limited or even non existing. Furthermore, BA can provide much valuable flexibility and door-to door services.

As the sector is growing and airports' capacity is limited, BA is more and more competing for infrastructure with scheduled airlines while not being in a position to compete with traditional operators on equal terms. There is no easy and immediate remedy available but some elements of solution are already outlined in the existing legislation.

II. Legal and Policy Framework

1) Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports as amended ("Slots Regulation")

The Slots regulation was amended at several occasions whereas the most substantial changes were introduced by Regulation (EC) No 793/2004. Recently, the Slots Regulation was amended in order to allow air carriers to face the consequences of the economic and financial crisis (Regulation (EC) No 545/2009 which put in place temporary suspension of "use-it-or-loose-it" rule). Slots are scarce and valuable and EU has to strike the balance between different interests. The Slots Regulation defines BA in Article 2 (1) as follows:

'business aviation' shall mean that sector of general aviation which concerns the operation or use of aircraft by companies for the carriage of passengers or goods as an aid to the conduct of their business, where the aircraft are flown for purposes generally considered not for public hire and are piloted by individuals having, at a minimum, a valid commercial pilot license with an instrument rating

The present definition hardly covers the evolution that has taken place in the BA sector and particularly the different new services that are now common (air taxis, fractional ownership). Therefore it might be useful to think about the treatment some of such services should be given and how they should be considered when it comes to determine priorities in slot allocation. However, any change of the definition should be considered carefully because it might imply a change of material scope of the Slots Regulation.

Concerning the airport access and the process of slots allocation for BA, Article 8 (3) provides:

Without prejudice to Article 10(2), in a situation where all slot requests cannot be accommodated to the satisfaction of the air carriers concerned, preference shall be given to commercial air services and in particular to scheduled services and programmed non-scheduled air services. In the case of competing requests within the same category of services, priority shall be given for year round operations.

In this context, where a BA air carrier demonstrates regular usage of slots at an airport that falls within the scope of the Slots Regulation, the sector should be deemed to be **programmed non-scheduled air services**.

As a complement and in addition to this, Article 8 (7) lays down a mandatory obligation for the slot coordinator stipulating that:

The coordinator shall, in addition to the planned slot allocation for the scheduling period, endeavour to accommodate single slot requests with short notice for any type of aviation, including general aviation. To this end, slots remaining in the pool referred to in Article 10 after distribution among the applicant carriers and slots available at short notice may be used.

2) Communication from the Commission - An agenda for sustainable future in general and business aviation COM/2007/0869 final

In January 2008 the Communication from the Commission on GBA was adopted. It was a first attempt to study this sector thoroughly at EU level. The Communication brought some clarifications concerning the definition of "commercial air transport operations".

The Communication deals also with capacity problems BA is facing. BA aircrafts operate mainly from secondary airports and locals aerodromes. But as the demand for capacity is growing, even these airports may be classified as schedules facilitated or coordinated. Moreover, environmental concerns should be taken into account when planning expansion of the capacity of such airports and aerodromes.

There are two separate tracks that Communication proposes to pursue to address the concerns of BA operators:

- 1) Better planning to optimize the use of existing capacity, including the use of dedicated infrastructure to meet the specific needs of BA operators
- 2) Development of modern technologies, in particular of GNSS based navigation, allowing broader implementation of precision approaches at airports currently unsuitable for BA.

III. Revision of the Slots Regulation

On 30 April 2008 the Commission adopted a Communication on the application of Slots Regulation (COM(2008) 227 final). In this Communication the Commission states its views on the application of the Regulation while taking into account the input from Member States and stakeholder. Stakeholders have experienced particular difficulties in following areas:

- Independence of the coordinator
- New entry
- Transparency of schedule data
- Local guidelines
- Secondary trading
- Consistency between slots and flight plans

The last mentioned area is especially relevant for BA, which due to nature of its operation often operate off- or without slot (whereas Article 14 (1) of the Slots Regulation provides that

air carrier's flight plan may be rejected if it intends to land or take off at coordinated airport without a slot but it is not applied in systematic or consistent manner).

On 4 November 2008 the new Community Observatory on Airport Capacity was inaugurated, and where the BA representatives also participate. It should serve as a platform for all stakeholders to express their specific needs concerning the access to infrastructure and search for dedicated solutions.

The aim of the revision is the fullest and most flexible use of capacity at congested Community airports while maximising consumers' benefits. The revised Regulation will have to tackle some very tough questions, for example: How should be the market opened and the current system made more competitive? How should the ownership of slots be defined? Should the current administrative slots allocation system stay in place or should it be (partially?) replaced by more market based system? How to include environmental aspects in the slot allocation mechanism? Which criteria should define the misuse of slots and how it should be sanctioned? Besides, the revised Regulation will provide the legal clarity and certainty in relation to secondary trading with slots.

The Commission will contemplate all the relevant issue and cautiously examine input of all stakeholders. An extensive impact assessment analysis will be carried out.

IV. Conclusions

The slots allocation mechanism is by its definition rooted in the principle of regularity and planning and scheduling well in advance whereas BA is more based on the principle of flexibility (although some regular flight patterns can be found). Therefore it is sometimes difficult to reconcile these two opposite approaches. Slots are key element in air transport policy and necessary instrument for efficient aviation system. Slots are scarce and the Commission has to maintain equilibrium between different interests and ensure the most efficient way of use of airport capacity.

The revision process is at it very beginning. Therefore all the proposals aiming at better use of existing capacity are welcomed.