EUROPEAN COMMISSION

Impact assessment of revisions to Regulation 95/93

Results of stakeholder consultation

March 2011

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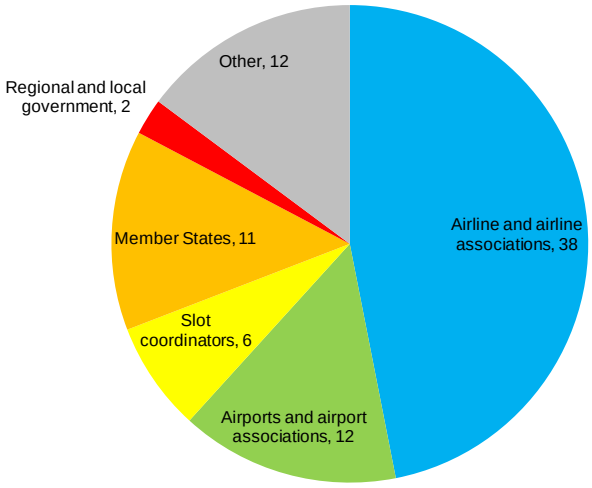
1. RESULTS OF STAKEHOLDER CONSULTATION

Overview of responses

1.1 Figure 1.1 shows the number of responses received by category of stakeholder. Almost half of the respondents were airlines or airline associations; most of these respondents were operators of scheduled air services. The 'other' respondents include air navigation service providers (ANSPs), other aviation industry stakeholders, academic institutions, non-governmental organisations, competition authorities, a legal firm and an individual citizen.

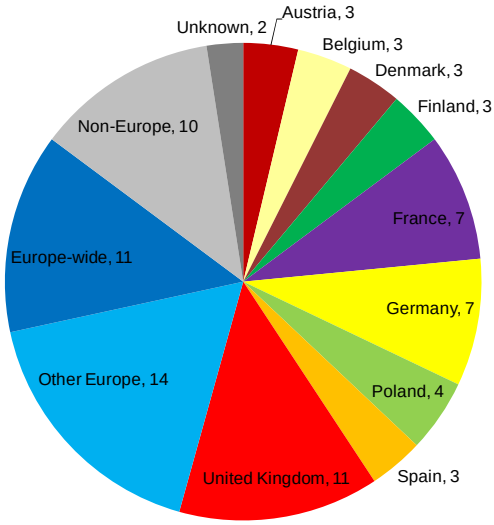
1.2 Information submitted by airlines and other stakeholders is generally consistent with that provided to us in bilateral interviews. However, several of the slot coordinators that provided detailed information to us in the bilateral interviews, including ACL, FHKD and AENA, did not respond to the open public consultation. EUACA submitted a response, which in principle covers all the coordinators; however as there are differences in view between the coordinators, EUACA could not express views in response to some of the questions.

FIGURE 1.1 RESPONSES RECEIVED TO PUBLIC CONSULTATION



1.3 More of the responses came from stakeholders based in the UK than any other Member State. There were also a large number of responses from Europe-wide organisations (such as airline associations), stakeholders based in non-European States, and stakeholders based in France and Germany.

FIGURE 1.2 STATES OF ORIGIN OF RESPONDENTS



Summary of stakeholder views

1.4 Airlines and airline associations were satisfied with the functioning of the current Regulation and consequently, most respondents within this group did not support the proposed amendments. Where respondents were supportive of amendments they often highlighted alternative approaches, frequently at a Member State or local level, which would not need amendment to the Regulation. Several airlines highlighted that the most important issue was the shortage of airport capacity, which changes to the Regulation would not address.

1.5 The airports and airport associations more frequently identified areas for change and were therefore more likely to identify benefits in some of the options raised in the consultation. This also applies, to a lesser extent, to the coordinators, although they either did not express any opinion on, or opposed, the most radical options for revision to the Regulation (auctions and withdrawal of grandfather rights). There was more divergence amongst the Member State and 'other' respondents, although these stakeholders were more supportive of amendments to the Regulation than the airlines. Nonetheless France, Italy, Belgium, Finland and another Member State opposed almost any changes to the Regulation, whereas the UK, Sweden, Poland and Greece supported more of the possible changes, although all opposed the most radical change (withdrawal of grandfather rights).

Questions relating to the current operation of the Regulation

Question 4: How well do you believe the Regulation is currently functioning? What problems, if any are there with its current operation?

1.6 **Airline and airline associations:** Almost all airlines and airline associations argued that the Regulation was functioning well and that it was not necessary to make any significant changes to it; this view was shared by scheduled, charter and low cost operators and their associations. Airlines argued that the Commission's priority should be to ensure that the Regulation is properly implemented in all Member States. Several

also emphasised that it was necessary to expand capacity at congested airports and that the most the Regulation could hope to achieve was to manage the shortage of capacity, not generate new capacity. The only airline not to consider the Regulation to be functioning well was the business aviation operator Netjets, which argued that business aviation is unfairly disadvantaged, because at most EU airports it is not possible to gain historic rights to slots on the basis of total operations; Netjets also pointed out inconsistencies in interpretation of the Regulation between coordinators. Finally, a business aviation airline association shareholder and flight operations manager suggested that the current Regulation was not being complied with, citing a number of issues at Vienna airport.

1.7 **Airports and airport associations:** Most airports and airport associations felt that the current Regulation was functioning well, although almost all highlighted specific aspects which could be improved. Many highlighted the need to shift from the current administrative mechanism to one which effected a more efficient use of airport capacity, for example by encouraging larger aircraft or by enhancing incentives and sanctions to increase the actual usage of allocated capacity. ACI Europe, Fraport, BAA and the German Airports Association emphasised that the current system had developed to cater for the needs of the network carriers and was not necessarily beneficial to airports or reflective of recent industry changes. Fraport suggested that the work done by coordinators was not generally recognised, and that some form of incentive scheme may be worthwhile. ACI Europe, BAA and Manchester Airport also believed that in some states (it was not stated which) the independence of the coordinator was 'questionable'; and both Oslo and Manchester Airport highlighted the difficulties caused by the conflict between slot time and scheduled time. This was reflected by Oslo and another airport managing body, which urged measures to ensure greater consistency between flight plans and slots; the other airport adding that there should be more possibility to take account of local conditions and clear guidance if secondary trading were introduced. Manchester Airport also suggested that the ownership of slots should be defined, and that the capacity parameters currently used in the coordination process may not be the most effective. Finally, another airport operator added that the current new entrant rule was ineffective and that local circumstances were not sufficiently considered.

1.8 **Member States:** Most Member States were satisfied with the functioning of the Regulation, with the Belgian CAA indicating that the lack of complaints received suggests that no major revisions are required. In spite of the general satisfaction, several other national governmental organisations did identify various issues and potential improvements. ENAC suggested that, although the amendments introduced by 793/2004 have been effective some problems remain. The UK CAA and DfT suggested changes to improve the transparency of slot allocation, the introduction of additional market principles and validation of secondary trading as currently takes place in the UK. Both DGAC Spain and the Hellenic CAA suggested better clarification for business aviation and more action to ensure consistency between flight plans and slots. DGAC Spain also highlighted a need for better clarification of secondary trading and for changes to the new entrant rule. The Hellenic CAA also suggested more specific criteria for allowing withdrawals in response to violations. The Polish Civil Aviation Office and another national governmental organisation cited a number of issues, the former urging clarification and review of the issues of coordinator independence, secondary trading, local rules, new entrants, information and the consistency between flight plans and slots. Issues raised by the latter included

imprecise and often flouted rules on coordinator independence and the large margin of interpretation left to coordinators, meaning that the Regulation has to be amended whenever there is major turmoil in the air transport market.

1.9 **Slot coordinators: Coordinators also believed the** Regulation to be functioning well but pointed out that clarification of some aspects would be helpful. Schedule Coordination Austria (SCA) suggested a number of changes including the introduction of monetary mechanisms to the allocation process and removal of the new entrant rule and schedule facilitation. The Danish coordinator requested clarification on how to treat carriers with suspended AOCs and how coordinators should be funded, and the French coordinator highlighted the need for better coordination with flight planning, facilitating access for new entrants and encouraging increases in capacity.

1.10 **Other:** Other stakeholders expressed a wide diversity of opinion. The government of the Canary Islands argued that some improvements should be made, for example to the independence of coordinators, and to give a direct role for regional government in slot allocation decisions. The Airport Regions Conference argued that the Regulation should take into account impacts of slot allocation on regional connectivity.

1.11 The European Express Association (EEA) believed that the Regulation was largely effective and did not recognise a need for amendments, emphasising that variations in implementation and the shortage of capacity are the key issues. Danish Aviation believed that the Regulation is functioning well overall, but also cited inconsistencies in application and issues related to independence and transparency. Norton Rose suggested that, despite the vast improvements brought about by the Regulation, clarification was still required in several areas. The French Competition Authority highlighted the issues of coordinator independence and transparency, and cited the limitations on new entrants to the market imposed by the grandfather-based system. The Polish Air Navigation Services Agency (PANSA) would welcome the ability to introduce coordination at non-congested airports and/or for certain times of day only. The Gatwick Area Conservation Campaign and UK Aviation Environment Federation stated that the Regulation was economically and environmentally inefficient and could be addressed by market-based measures, a view echoed by a Spanish academic thesis which highlighted the economic inefficiencies inherent to the current system.

Question 5: Do you agree with the issues raised in the Commission's 2008 Communication on the operation of the slot Regulation, and why?

1.12 The 2008 Communication highlights the following issues:

- The independence of coordinators was not universally enforced;
- Not all coordinators were providing transparent slot information;
- Local guidelines should be compliant with Community law;
- The Regulation does not specify whether secondary trading is permitted, and therefore the Commission would not take infringement proceedings against States which permitted secondary trading and this was in a transparent manner; and
- There was a need to ensure consistency between slots and flight plans.

1.13 **Airline and airline associations:** Most of the airline and airline associations argued

that despite agreement with some or all of the points raised in the Communication, these were often not Europe-wide issues and would be best addressed by better implementation of the current Regulation rather than revisions. The Fédération nationale de l'aviation marchande (FNAM) believed this to be the case for most of the points, with the exception of secondary trading which it opposed and did not believe required revision of legislation. Some respondents were in agreement with the issues raised in the 2008 Communication, although the extent of the problems may vary between States, and one carrier had not experienced any of the issues. British Airways was largely in agreement, but suggested that the issue consistency between flight plans and slots should be first addressed by ensuring consistent application of the current Regulation before any amendments are considered. Two of the stakeholders which believed that a revision was unnecessary argued that the real issue was the lack of airport capacity, and that slot allocation should serve the often seasonal needs of carriers and should not be used as a market manipulation tool. Cathay Pacific believed that the question was irrelevant, and that the real issue was what changes could be made to improve efficiency and increase the number of slots available.

1.14 **Airports and airport associations:** Most airports and airport associations were in agreement with the issues raised in the Communication, although many emphasised that the most pressing need was to encourage more efficient use of scarce airport capacity as growth in demand continues to outpace increases in capacity. ACI Europe, BAA and Manchester Airport also emphasised some coordinators' lack of independence and transparency of information (it was not indicated which States this referred to). Another airport operator focused on local rules and secondary trading, expressing support for the former and opposition to the latter.

1.15 **Slot coordinators:** Both EUACA and Airport Coordination Norway hoped for more clarity on the issue of secondary trading. EUACA also emphasised the need for stronger requirements regarding independence and transparency, and suggests clarification of Article 14.1 regarding reconciliation between slots and flight plans.

1.16 **Member States:** DGAC France, ENAC and the Polish Civil Aviation Office generally agreed with the points made in the 2008 Communication, although DGAC considered that the issue of secondary trading should be approached with caution. The UK CAA / DfT, Belgian CAA and Swedish Transport Agency were generally in agreement with most of the issues identified in the Communication, although in the case of independence of coordinators and consistency of flight plans the UK CAA / DfT suggested that the better enforcement rather than changes to the Regulation was the solution. The Belgian CAA believed that the combined coordinator database had addressed the issue of data transparency, and the Swedish Transport Agency indicated that independence and transparency were not issues in Sweden. The issues of independence and coordination with flight plans were emphasised by the Hellenic CAA, although it was not stated whether changes to the Regulation were the best means to address the issues. Transparency was understood by the UK DfT and CAA to be an issue which should be addressed in other States, and the importance of ensuring that any changes to the Regulation do not impede secondary trading in its current form was also emphasised. DGAC Spain made a request for generally more uniform application of the Regulation. Based on its experience another Member State felt that the only immediate legislative change required was to clarify secondary trading. Finland was the only Member State to suggest that none of the issues have been a problem.

1.17 **Regional and local government:** The Airport Regions Conference highlighted the issue of local rules, specifically that these tend to be formulated without consulting local and regional stakeholders. It was stated that by including the relevant authorities airports may better meet the needs of their local regions.

1.18 **Other:** Where an opinion was stated, most respondents generally agreed with the issue set out in the 2008 Communication. For example, the Danish Competition and Consumer Authority (DCCA) believed that most of the issues raised in the Communication are essential for optimal competition. The French competition authority was more selective, emphasising that the issues of most relevance today were data transparency and the independence of the coordinator, and the Spanish academic believed that, although providing a critical first step, the 2008 Communication should be supplemented by development of more market-based approaches.

Question 6: How has the availability of slots influenced the ability of air carriers to expand or reshape their networks?

1.19 **Airline and airline associations:** Almost all respondents highlighted the significant impact of slot availability on airline networks. This impact was most frequently illustrated in terms of how restricted availability can limit the ability of airlines' networks to grow and adapt. Many of the stakeholders highlighting this issue added that the key issue here was limited historical investment in capacity rather than the availability of slots. NetJets was one of the few stakeholders to have responded by moving to different airports – it cited multiple moves to less congested airports. Some carriers took a different approach, emphasising the ways in which available slots have been used to expand networks – for example easyJet at Gatwick, Orly, Madrid and Amsterdam. FNAM suggested that the vast expansion of low cost carriers suggests that the current rules have not been a barrier to the development of new entrants. ELFAA questioned the need for some airports to be coordinated at all, arguing that the status is self-awarded by some airports to justify further investments in capacity.

1.20 **Airports and airport associations:** All airports cited shortages in capacity at peak times which limit the availability of slots; most suggesting that this could limit the growth of both airlines and airports, with negative consequences for regional economic development. Manchester Airport identified similar capacity constraints, but did not believe that these constraints had been severe enough to exert any significant limitations on carriers' ability to grow or reshape their networks. Similarly, Oslo Airport highlighted that, despite the limitations, the low cost sector had still been able to build a strong network.

1.21 **Slot coordinators:** The slot coordinators gave a mixture of responses. Whilst identifying capacity as being an issue, Airport Coordination Denmark (ACD) suggested that home base hub carriers create their own capacity problems in their efforts to offer the fastest connections. Schedule Coordination Austria (SCA) believed that if capacity were available airlines would be able to react to market requirements much more quickly. Brussels Slot Coordination highlighted the various ways in which airlines can respond to capacity limitations. EUACA said that coordinators are often not aware of airlines' plans and what they were unable to implement because of a limited availability of slots. COHOR suggested that carriers have been able to develop

at all airports except Heathrow.

1.22 **Member States:** The UK CAA and DfT highlighted how the secondary market had allowed significant movement of slots even in spite of the severe limitations on capacity at Heathrow and Gatwick airports, and DGAC France described how the growth of low cost carriers has been possible in spite of the lack of slots at some French airports. In contrast, DGAC Spain highlighted the significant increases in capacity at most Spanish airports, although suggested that carriers may still have some issues at certain peak times. The Swedish Transport Agency, the Polish Civil Aviation Office and another national governmental organisation cited the lack of capacity problems in their states, but the Polish Civil Aviation Office highlighted that the development of its carriers' networks is impeded by shortages of capacity at other European airports. Finally, ENAC focused on the rigidity of the slot allocation system, which contrasts with the rapid change of the aviation sector in general.

1.23 **Other:** All responding stakeholders highlight the limitations on airlines' networks imposed by the shortage of airport capacity and slots. The French competition authority added that the lack of available capacity at French airports had limited the growth of the low cost sector compared with other European states.

Question 7: What are in your view the main changes and challenges in the aviation sector which have had impacts on the slot allocation system? Do you think airline alliances have had any impact on the allocation of slots? Please explain why.

1.24 **Airline and airline associations:** The primary change identified by carriers and associations as having an impact on the slot allocation system is the overall increase in demand relative to the limited increases in capacity. Many carriers also highlighted the increasingly competitive environment and the challenges this brings – an issue particularly highlighted by the network carriers, one concerned about the usage of scarce hub capacity by low cost carriers using smaller aircraft. easyJet believe that the increasing competitiveness of the airline sector has in itself driven compliance with the Regulation – as capacity has become more scarce airlines have focused more on the allocation process and actions of the coordinators. Thai Airlines believed that slot trading had been the main change, and that this would result in large airlines monopolising the slot market. A number of stakeholders identified a link between the airline alliances and the slot allocation system; some carriers believed that alliances have had the advantage of enabling exchanges of slots between partners, whilst several stated that airline alliances have not made the challenge of accommodating demand with limited capacity any easier. NetJets highlighted the problems caused by alliances for business aviation, as they can dominate certain airports and further diminish slot availability. Another respondent suggested that the growth of alliances had increased competition by promoting consolidation among network carriers and allowing low cost carriers to obtain the capacity released.

1.25 **Airports and airport associations:** Again a number of stakeholders highlighted the continuing growth in aviation (and in some cases also low cost airlines) as being a significant influence on the slot allocation process (another airport manager also highlighted the shift towards hub networks as causing congestion at certain times). The main change identified by Schiphol Airport was the change in definition of a slot, from scheduled arrival or departure to access to runways, gates, terminals and so on.

Schiphol also suggested that slots have become competitive instruments for airlines and alliances. In contrast with the views expressed by some of the airlines, BAA suggested that most slot trading is now within alliances, potentially restricting access for non-aligned carriers. Another airport operator highlighted that slot allocation does not take into account alliances.

1.26 **Slot coordinators:** Airport Coordination Norway highlights the main challenge as being the rapid turnover of airlines and accelerating pace of change. SCA suggests that the existing Regulation does not reflect the needs of the low cost carriers. Brussels Slot Coordination, EUACA and ACD all identified impacts of alliances: Brussels Slot Coordination in terms of the reduction in competition where one alliance is dominant, EUACA in terms of the slot transfer possibilities offered, and ACD in terms of the additional traffic which they can attract to the hub airport.

1.27 **Member States:** The Belgian CAA highlighted the main challenges as being increased competition and financial pressures due to the recession, the latter echoed by DGAC Spain which also emphasised the significant growth in low cost traffic at its airports. DGAC France also highlighted the growth in low cost traffic, and suggested that their high frequency services have accentuated capacity issues. Several Member States discussed the impact of alliances, and DGAC France identified alliances as one of the main changes having an impact on the slot system. One Member State described how increased cooperation between carriers has supported the concentration of traffic around small groups of carriers at hub airports, impeding the competitiveness of smaller carriers and reducing their access to attractive slots; although it also highlighted their advantages in terms of providing economies of scale. The Swedish Transport Agency and Polish Civil Aviation Office reflected this response, contrasting the increased ability of their members to adapt to the market with the comparative disadvantages of non-aligned carriers. The Belgian CAA suggested that alliances play an important role from a commercial and operational perspective, as they receive a large proportion of slots. DGAC Spain and the UK CAA and DfT suggested that alliances may have promoted greater fluidity; with the UK stakeholders adding that many slot trades have been between alliance partners (ENAC and the Polish Civil Aviation Office also suggested that alliances facilitate the exchange of slots between their members). The UK CAA / DfT also emphasised that alliances are not the only form of cooperation, and indeed can be regarded as a weak form in comparison with other models.

1.28 **Other:** Norton Rose identified a key issue as being an excess in capacity resulting from the economic downturn, although also highlighted other developments, such as the merger of some European flag carriers and the development of low cost airlines and regional airports. Whilst recognising the potential efficiencies and benefits offered by alliances, Norton Rose also highlighted possible negative effects on competition. This view was supported by the French Competition Authority, which suggests that alliances could be used as a means of circumventing the new entrant rule by allowing the takeover of smaller carriers in order to obtain their slots. It also highlighted ‘babysitting’ by alliance partners as being a means by which carriers sought to avoid returning slots to the pool. ENAC suggested that the large flexibility which exists in slot trading encourages alliances between carriers, and Danish Aviation focused on the issue of growing demand and insufficient capacity, and had no indication of the effects

of alliances.

Options for revision of the Regulation

Option B1: Strengthen the independence of the coordinators

Option B1.1: Organisational separation of coordinator

Question 8.1: What measures have the Member States taken to ensure that coordinators are functionally separated from any single interested party?

1.29 **Airline and airline associations:** Varying degrees of independence was cited as an issue by many respondents, although in some cases it was believed that this had now been largely resolved by the actions of the Member States concerned; for example easyJet cited improvements in Greece and Italy, and suggested that funding arrangements were now the key issue. The speed of change (particularly in Greece) was concerning for some carriers, and British Airways suggested that there was little evidence to suggest that any action was being taken to tackle those Member States which had been slow to enforce the independence of their coordinators. The carrier also highlights the successful measures taken in the UK, highlighted by other carriers as being fair and transparent. The Swiss, German, French, Finnish and Dutch coordinators were also cited as 'best practice' examples, although the role taken by the respective states in ensuring this was not clear. NetJets and another carrier were unaware of any measures having been taken by the Member States.

1.30 **Airports and airport associations:** BAA and Manchester Airport described the actions taken in the UK in establishing ACL, although BAA suggested that there remained the potential for it to be influenced by the airlines, as these comprised the entire membership of its board. Oslo Airport explained the model adopted in Norway, where the ownership of the coordinator is divided equally between airlines and airports. In Switzerland the split was described by Zurich Airport as being three-way, with the coordinators' members drawn from airports, airlines and the state. Two other airport managing bodies were satisfied with the independence of their coordinators.

1.31 **Slot coordinators:** ACD, Airport Coordination Norway and Brussels Slot Coordination made reference to the successful arrangements adopted in their own states. Both EUACA and ACD highlighted variations between states, with EUACA specifically citing independence from the Member State as being an issue in some cases.

1.32 **Member States:** All stakeholders seemed satisfied with their arrangements introduced in their States, some citing the specific laws which have been enacted to require the independence of their coordinators. Some examples of financing models were given, including equal division between carriers and airports. The UK CAA and DfT added that UK regulations require the managing body of airports to be satisfied that the coordinator functions separately from any interested party. DGAC Spain stated that the Spanish coordinator acts independently despite being part of AENA, and that no complaints had been received from stakeholders.

1.33 **Other:** The transport directorate of the government of the Canary Islands suggested that the ownership of the Spanish coordinator by AENA was an anomaly which had not been (and should be) addressed, given that the organisation was also the airport

operator. Norton Rose highlighted the variance in approaches adopted by the Member States, and suggested that in some cases (the example of France was cited) more progress perhaps needed to be made. This was reflected by the French Competition Authority, which highlighted the positive changes which had been made to the structure of COHOR, but suggested that the strong representation of Air France on its Board of Directors may be an issue. Danish Aviation believed that 'a number of Member States' had established independent and neutral coordinators, but that funding mechanisms were perhaps more variable.

Question 8.2: What would be the advantages and disadvantages of amending the Regulation to specify that the coordinator should be organisationally, as well as functionally, separate from interested parties such as airport management companies, and not to have any obligations to report back to them? What administrative costs would it generate? How could the independence of the coordinators be improved otherwise? Please suggest solutions.

1.34 **Airline and airline associations:** Most respondents emphasised the need for coordinators to be independent from other organisations and the benefits this brings, and no stakeholders highlighted disadvantages arising from increased independence. There was however disagreement regarding the most effective way to achieve this. Many respondents suggested that independence requirements were already sufficiently covered by the Regulation (or that the issues were not sufficiently serious) and that no further legislative changes were needed. Many of these respondents suggested that where there were problems these would be best addressed through better enforcement of the existing Regulation. No carriers expressed clear support for legislative changes, although easyJet would support 'additional measures' to ensure the independence of the coordinators. Other stakeholders offered no suggestions, or gave examples of independent structures, but not how these models could or should be enforced. Few respondents made reference to potential administrative costs, the exceptions being NetJets, which asserted that stakeholders should not have to bear the costs of maintaining independence; and Condor, which argued that although there were administrative costs, these were worth it.

1.35 **Airports and airport associations:** Similar views were shared by several respondents, namely BAA, Fraport, the German Airports Association and Schiphol Airport. Schiphol and BAA highlighted the need for funding to be balanced between interested parties, and all suggested that coordinators should be obliged to produce yearly reports. Schiphol Airport, BAA and the German Airports Association also suggested that coordinators should be monitored against performance or service level agreements. Manchester Airport was the only respondent to explicitly suggest that the Regulation should be strengthened to clarify the requirements for independence. Zurich Airport believed that the only way to ensure complete independence would be for the coordinator to become a state organisation funded from general taxation.

1.36 **Slot coordinators:** EUACA echoed the views expressed by some of the airports, suggesting mandatory annual reports to Member States. Other coordinators express varying opinions: for example ACD expressed satisfaction with the current arrangements in Denmark, and Brussels Slot Coordination stated that independence of the coordinator can be achieved with the current Regulation. Only SCA referred to

administrative costs, predicting that these could increase by 25% (given that SCA is already independent this may refer to costs already borne in Austria, however this is not stated).

1.37 **Member States:** One Member State expressed concern that separation of the coordinator would not increase the transparency of the coordinators' activities. Both the Belgian CAA and the UK CAA / DfT emphasised that the Regulation already requires the coordinators to be independent bodies, but that there was an issue of incomplete implementation and enforcement. Similarly, DGAC Spain, DGAC France, the Swedish Transport Agency and another Member State stated that their current structures were already compliant with the Regulation, with two adding that the Regulation should not be amended in this regard. The UK suggested that it may be beneficial if there was a greater onus on the coordinator to demonstrate its independence. The Belgian CAA suggested that the means for financial independence should be determined at the national level, a view echoed by Spain which believed that all coordinators do not have to share the same organisational model. France stated that it would not be opposed to a revision of the Regulation, provided that the means of implementation are homogenised and binding for all Member States. The Hellenic CAA stated only that the enhancement of coordinators' independence would be beneficial for the slot allocation process. The Polish Civil Aviation Office and another national governmental organisation suggested that independence should not increase costs, with the Swedish Transport Agency also stating that independence can be achieved without major cost.

1.38 **Other:** The French Competition Authority supported this proposal, and suggested that it follow the regulatory model enforced on the rail sector. DCCA was the only respondent to cite administrative cost impacts, but suggested that these would be outweighed by the advantages generated by greater independence. Norton Rose stressed that better monitoring of Member States was the most efficient means of ensuring the independence of the coordinators. In contrast, the Aviation Environment Federation asserted the most effective approach as being complete separation of what is a public interest service from private interests, i.e. the users of the coordination service. The Gatwick Area Conservation Campaign proposed that the costs of coordination should be recovered from operators, with any surplus given to local environmental organisations. Danish Aviation suggest that the issues of independence and transparency are already reflected in the Regulation, but there could be a benefit in identifying and documenting 'best practice' examples for replication elsewhere.

Option B1.2: Keeping separate accounts

Question 9: What would be the advantages and disadvantages of amending the Regulation to specify that the coordinator must keep accounts and budgets separate from any party having an interest in its activities, and should not be financed solely by a single interested party? What, if any, administrative costs would this generate?

1.39 **Airline and airline associations:** The majority of respondents agreed that coordinators should keep separate accounts and budgets, but it was not agreed that the Regulation should be amended to require this. ERA, IACA and an airline highlighted that the notion of separate accounts is inherent to the independence already specified by the existing Regulation, so further revisions are unnecessary provided

implementation is effective. Whilst agreeing with the principle of cost separation, a number of carriers did not state how this should be achieved, and ELFAA, Ryanair and another carrier asserted that there were no issues which needed to be addressed by regulatory changes. Four carriers highlighted the difficulties in sharing coordination costs between airlines and airports, as airports would probably pass the costs onto airlines though their charges anyway. Again, only a few respondents referred to administrative costs – examples are Condor and NetJets, which suggested that the value of ensuring independence would in any case far exceed that of any administrative costs. One carrier asserted that any change to the Regulation would result in more bureaucracy and therefore more costs for airlines, with another indicating that home carriers would be most affected by this.

1.40 **Airports and airport associations:** ACI Europe and BAA emphasised that coordinators should not be involved in slot trades in any way, and both added (along with Fraport) that Article 4.2 already gives clear guidance regarding the independence of the coordinator. Oslo Airport highlighted that no changes were necessary in Norway as a compliant system was already in place. Only Manchester and Zurich Airports made reference to administrative costs, both suggesting that these should be small.

1.41 **Slot coordinators:** ACD and Brussels Slot Coordination emphasised the need for charges to be shared across all operators via a common system. SCA also suggested that airlines could request better service quality from the coordinator if they were paying for the service. EUACA referred to the checklist in the IATA World Scheduling Guidelines which sets out best and poor practices regarding coordinator independence.

1.42 **Member States:** Three stakeholders were generally supportive of this amendment and four were opposed. A solution proposed by ENAC to achieve this was having the coordinator funded entirely by the Member State. Despite suggesting that the proposed amendment would guarantee the independence of the coordinator, the Belgian CAA highlighted the independence of its own coordinator and suggested that this should apply for all. The UK and France suggested that the Regulation already provided sufficient clarity, and that the focus should be on enforcement. Spain also argued that an amendment would not guarantee the independence of the coordinator. The Polish Civil Aviation Office and another two stakeholders predicted that there should generally not be an increase in administrative costs, whereas Spain believed that a new model would increase costs.

1.43 **Other:** Five stakeholders prepared detailed responses to this question. Only Norton Rose expressed an opinion on whether the Regulation should be amended to require separate accounts – suggesting that this is already specified by the Regulation and that the desired outcome could be best achieved by better monitoring by Member States. An alternative suggested by the French Competition Authority was the establishment of an independent regulatory authority to supervise the funding of coordinators, which could also have oversee the rail industry. No reference was made to the potential costs generated, although this was highlighted by two of the remaining three respondents, both believing that this would be marginal. The third (DCCA) believed that the transparency generated was more important than the costs of keeping separate

accounts.

Option B1.3: Limits on adjacent activities

Question 10: What would be the advantages and disadvantages of amending the Regulation to limit the types of adjacent activities that a coordinator may develop (such as consultancy services), in order to avoid any possible influence on their coordination activity? What, if any, administrative costs would this generate?

1.44 **Airline and airline associations:** Stakeholders provided a range of responses to this question. Although many were in support of limiting adjacent activities, it was generally not clear how this should be achieved. The responses were divided fairly equally between those who believed that all activities beyond the core role set out in the Regulation could create a conflict of interest and should be limited or prohibited entirely, those who believed that the key issue was that coordinators should not be undertaking any adjacent activities which create a potential conflict of interest (and that permitted activities could even be beneficial in providing funding or disseminating good practice), and others suggesting that any potential issues which have arisen were not sufficiently widespread to warrant re-drafting of the Regulation, and should be dealt with on a case-by-case basis. Two carriers expressed clear support for consultancy services being provided by coordinators, and believed that these could reduce costs and accelerate the uptake of best practice in slot coordination. Administrative costs were again referred to only infrequently: NetJets suggested that these would be insignificant, and two carriers believed that some compensation of consultancy earnings could be necessary, although this should be absorbed by decreased costs due to the downsizing of the coordinator made possible.

1.45 **Airports and airport associations:** Five airports and associations believed that adjacent market activities should not be allowed. Fraport and the German Airports Association added that slot coordination is an administrative process, leaving no room for adjacent business activities. BAA also suggested that, where resources allow and with agreement, it may be permissible for coordinators to offer consultancy in other States. Of the remaining respondents to the question, Manchester Airport was not supportive of any widening of the types of outside activities and consultancy allowed (perhaps suggesting that it is satisfied with ACL's current practices), and in particular not any consultancy undertaken to the benefit of only one party, which could cause a possible conflict of interest in the future. Zurich Airport took a similarly balanced view, suggesting that the Regulation should only address activities which impair the independence of the coordinator. The airport was the only respondent to comment on administrative costs, predicting that none would be generated, but that loss of revenue would occur.

1.46 **Slot coordinators:** Coordinators provided different responses to this question. COHOR suggested that coordinators should focus on their public service function rather than seeking alternative revenues which could result in conflicts of interest. ACD suggested that the coordinator may offer additional services so long as these do not question its independence. Brussels Slot Coordination highlighted the problem as being that it is not known at present what is and is not authorised, presumably requesting some form of clarification. SCA saw no reason to limit commercial activities which would help finance coordination, and Airport Coordination Norway suggested that there could be issues if adjacent activities are connected to the airports

and airlines which form part of the coordination process. EUACA did not provide a view on this question.

1.47 **Member States:** Most Member States stated that it was not adjacent activities in general which were an issue, but rather any activities which could impede core activities or create a conflict of interest. Only one (Italy) stated explicitly that the Regulation should be changed in this regard. The Polish Civil Aviation Office did not state its own opinion, but compared the advantage of eliminating potential reasons for unequal treatment of carriers by coordinators against the disadvantage of the consequent reduction in ancillary revenues and which would have to be compensated for by increases in the fees paid by carriers and airports. The UK believed that in seeking additional opportunities in the UK and other countries, the coordinator ACL was demonstrating that its focus was on its expertise as a slot coordinator independent from any airline or national interests.

1.48 **Other:** Both DCCA and Norton Rose highlighted that some adjacent activities (for example data storage for airports) naturally connect to the coordinators' core functions; with Norton Rose also highlighting the additional funding generated from adjacent activities. Danish Aviation and the French Competition Authority suggested that coordinators should focus on their prime functions, with Danish Aviation adding that additional activities are likely to jeopardise independence over time. Only DCCA made an explicit reference to administrative costs, stressing that the advantages of eliminating conflicting activities far outweigh these.

Option B2: Improve transparency of schedule data

Question 11.1: What measures have the Member States taken to ensure that schedule data is fully transparent to interested parties?

1.49 **Airline and airline associations:** Several respondents highlighted the distinction between slot information, which coordinators should provide; and schedule information, which they believed that coordinators could not, as the route is not part of the definition of a slot and the coordinator only has local information. Condor did however refer to schedule data in its response, stating that this was only available in Germany and the UK. Only six stakeholders provided a direct response to this question, stating that they were unaware of any such measures having been undertaken by Member States. Many carriers highlighted in the differences in the level and standard of information provided in different States, although most added that this information was still sufficient to plan their schedules. ELFAA gave the example of Italy, where data provision was not believed to be transparent; and British Airways cited the UK as a 'best practice' example. Ten were generally satisfied (although three were carriers operating only at French, UK and German airports), with ERA adding that none of its members had highlighted issues in this area and that therefore amendment to the Regulation should not be required. Despite highlighting differences in the standard of information provided by coordinators IATA also shared this view. Of the airlines which were satisfied, a distinction was sometimes made between coordinators which provided information automatically and those from which it had to be requested from, although this was not believed to pose a problem. NetJets and the business aviation association shareholder and operations manager were the only respondents which believed that slot data was not transparent, the latter suggesting

that slot allocation at Vienna was completely opaque.

1.50 **Airports and airport associations:** The Schiphol Group identified the only measure as being the transposing of the Regulation into national law. ACI and BAA believed that the requirements already included in the Regulation seemed sufficient, and Manchester Airport added that formal government action has not been necessary in the UK as the coordinator was already making such information available. Oslo Airport stated that no measures had been taken beyond the Regulation itself, and that the required information was easily obtainable. Similarly Zurich Airport referred only to the helpful website set up by the Swiss coordinator, and another airport managing body stated that it was not aware of any complaints regarding transparency.

1.51 **Slot coordinators:** All coordinators providing responses to the question were satisfied with the current level of information provided. ACD highlighted the transparency of the www.online-coordination.com website, and Brussels Slot Coordination and Airport Coordination Norway stated that measures beyond the Regulation itself have not been required. EUACA stated that most of the required measures have already been taken by coordinators and they had developed a combined database.

1.52 **Member States:** Most Member States seemed satisfied with the transparency of schedule data, which was stated as being available to interested parties on request, via online tools, the EUACA website, Informative Circulars or slot coordination committees. Despite being satisfied with ACL, the UK CAA / DfT believed that this part of the Regulation needs to be properly enforced so as to be applied uniformly across Europe. Only Sweden and Italy identified specific actions which had been taken – Sweden prompted the coordinator to set up an online coordination service, and Italy took action to ensure that the slot waiting list was made available to members of the Airport Coordination Committee on request.

1.53 **Other:** The government of the Canary Islands expressed dissatisfaction with the current situation and urged that data should be required to be made available to a wider range of stakeholders. Otherwise, only PANSA provided a response, highlighting that the current Regulation does not require schedule data to be transparent to every interested party.

Question 11.2: What would be the advantages and disadvantages of amending the Regulation to require coordinators to make historic schedule data available, for example through placing it in an online database? What, if any, administrative costs would this generate?

1.54 **Airline and airline associations:** The most common response was that no difficulties had been experienced with regard to historic data, and most of these carriers could therefore not appreciate the need for any such amendment to the Regulation (although one did see advantages in having a file available at larger airports on a city pair basis). ERA also added that an online database should be developed through best practice guidelines rather than through an amendment to the Regulation. Six respondents expressed support for an amendment requiring historic data to be made available online, although in two cases it was added that the Regulation should not be amended solely for this purpose. British Airways suggested that the provision of historic data could be improved (ideally by universal provision of an all-carrier historic file), but did not state whether this should be required by the Regulation. However, both

ELFAA and Ryanair believed that historic data was less important than current 'live' information; ELFAA adding that this should ideally be made available online in a standard format by some means other than amending the Regulation. AEA and one other respondent suggested that the Commission should provide oversight within the context of the Regulation. Some airlines said that this proposal would ensure the transparency of the allocation process; another stated that smaller airlines would benefit as they tend not to subscribe to schedule data due to its cost. Some carriers believed that the costs involved would be minimal, with NetJets adding that these should in any case be borne by the coordinators or Member States themselves. AEA and five airlines suggested that a consolidated online database would be a potentially unnecessary additional cost, with a possible alternative being allowing access to the individual coordinators' databases. Condor predicted increased costs for all States, with the benefits confined only to the States with the most congested airports.

1.55 **Airports and airport associations:** BAA, ACI Europe, the German Airports Association and another airport group were supportive of a consolidated database, and also suggested that the airport should be included in communications between carriers and the coordinator, with the Regulation providing for standardised replies to carriers' slot requests. Fraport was satisfied with the Regulation's current requirements, and although an online database would be useful it did not believe it to be essential. Oslo Airport suggested that there was no need for historic data preceding the last three seasons. Gatwick, Manchester and Schiphol airports suggested that the increased transparency generated would foster a more efficient allocation and use of slots and would allow for more efficient decision-making by airports. In terms of costs, Lodz Airport predicted increases in ticket prices, whereas Zurich predicted marginal cost impacts.

1.56 **Slot coordinators:** EUACA supported provision of data by coordinators to be mandated by an addition to the Regulation, although expressed concern that the costs would be beyond the coordinators' present financial means. This concern was also expressed by COHOR, which added that any such requirement should be accompanied by a suitable financing method. ACD suggested that substantial periods of historic data were largely uninteresting and could unnecessarily take up data storage space. Brussels Slot Coordination suggested that if the coordinator uses software compliant with IATA WSG there would be no additional cost. SCA also agreed that there would be no additional cost, whereas Airport Coordination Norway indicated that making historic data available over longer periods than is necessary to determine historics would increase its cost and workload.

1.57 **Member States:** Where respondents cited potential benefits these were generally related to the greater degree of transparency which the proposal would generate, although the benefit identified by DGAC France was that it would ensure a homogenous level of information is available across Europe. The only perceived benefits related to the associated labour and technological costs, although these were not felt to be significant – for example the UK stated that costs should be low because the information should already be readily available (and that in any case the costs would be outweighed by the benefits), and Spain indicated that the coordinator had estimated the costs of an online database to be very small. The Hellenic CAA stated that the cost burden would fall on those coordination agencies without existing online

functions. Again, the question was not currently relevant to Poland, but its Civil Aviation Office anticipated benefits if coordination were introduced at its airports in the future. The only respondents to be unfavourable to the proposal were ENAC (which suggested that this could restrict the autonomy of the coordinators) and another Member State (which believed that the benefits depended on the amount of historic data which needed to be made available).

1.58 **Other:** The Airport Regions Conference suggested that a transparent record of current and historic slots would reduce the risks of misuse or abuse. The EEA suggested that airlines already receive sufficient transparency regarding slot data, and that more information on parameters and local rules would allow a better understanding of why certain requested slots were unavailable. Conversely, Norton Rose suggested that there was a lack of transparency, and that they would be strongly in favour of an online database. Other stakeholders focused primarily on the advantages and disadvantages, namely transparency and potential increases in administrative time and costs (although DCCA added that the advantages exceed the costs); and coordinators having to give explanations of decisions made some time ago. A citizen predicted marginal costs, as the information was available and already budgeted if published through the performance scheme of the SES.

Option B3: Better define and ensure the correct use of slots

Option B3.1: Slot reservation fees

Question 12.1: What would be the advantages and disadvantages of amending the Regulation to introduce slot reservation fees?

1.59 **Airline and airline associations:** No respondents believed non-use was sufficiently widespread to necessitate an amendment the Regulation introducing slot reservation fees, although Malaysia Airlines considered the proposal to be somewhat more acceptable if the fee was refundable, and easyJet asserted that any surplus should find coordination rather than go to any other interested party. Consequently, almost none suggested advantages, although three suggested that this would reduce abuse, with Condor adding that the result may be a slightly higher return of the less attractive slots at the SRD. For example, ELFAA suggested that there is already little incentive for carriers to hold slots unnecessarily as others would respond by restricting the number of slots they offered, and another carrier suggested that the IATA guidelines already offer a sufficiently robust framework. British Airways cited the sanction scheme already in place at UK airports, and suggested a potential alternative as being giving offenders lower priority at EU Level 3 airports. NetJets suggested increasing the minimum usage threshold to 95%.

1.60 The most frequently cited disadvantages of slot reservation fees were that these would also penalise good behaviour by the majority of airlines, create additional costs (with some adding that revenue risk would be even more heavily weighted from the airports to carriers), and would create additional administrative complexity. Other disadvantages raised were that the fees would reduce flexibility, have a disproportionate impact on smaller carriers, encourage airports to become coordinated as a revenue-raising measure; and could be unlawful and ultimately ineffective. Additional costs were predicted to arise from the fee itself and from forced operation of services which could otherwise have been cancelled under the 80/20 allowance.

ELFAA also stated that it had little faith in the concept of 'revenue neutral' charges. However, several respondents did agree that penalties should be administered to carriers which intentionally and repeatedly returned slots late.

1.61 **Airports and airport associations:** Most airports expressed some degree of support for the proposal. ACI, BAA and Fraport stated that this would not generate additional revenue for airports, with BAA and Fraport adding that because airport infrastructure would be better utilised costs could be distributed more fairly. Fraport also added that this would be the best way of solving the problem of insufficient slot usage. Manchester also expressed support (provided the revenue was not appropriated by government), Gatwick and Zurich believed that fees would be beneficial in promoting optimal use of slots, and Oslo and Zurich believed that this would reduce the risk of slots being reserved to block competition. One airport operator suggested a graduated penalty for late return, which would impose higher penalties for the latest returns. Schiphol did not express an opinion, but suggested that such fees may already be applied and should be a national competency, or be dealt with under the Airport Charges Directive.

1.62 **Slot coordinators:** EUACA suggested that consideration should be given to some form of dissuasive measure, either a reservation fee or possibly the coordinator not taking into account requests from an offending carrier for a period of time. None of the individual coordinators expressed support for the proposal due to the additional costs, administrative burden and practical issues entailed. Brussels Slot Coordination also cited a conflict with the requirement of coordinator independence, as the coordinator and airport managing body accounting systems would become intertwined.

1.63 **Member States:** Three States (Belgium, France, and Sweden) were opposed to reservation fees and four expressed some degree of support. Of these latter four, Greece and Spain focused on the potential advantages, including reductions in late handback, more efficient use of capacity, an increase in the number of slots available in the pool and a new source of revenue for coordinators. The UK stated that it could be supportive if it were demonstrated that there was a significant problem which needed to be addressed. Disadvantages cited were the additional complexity and costs entailed, the potential compromising of the functional separation of coordinator and airport, and the potential operation of unviable flights just to avoid losing the fee. A further common justification for opposition to the proposal was that the problem of late handback was not believed to be sufficiently widespread (France highlighted the already high utilisation rates at its airports).

1.64 **Other:** The Airport Regions Conference suggested that fees may be useful if set sufficiently high in order to prevent airlines reserving slots to prevent competition**.** Otherwise, no respondents were supportive of slot reservation fees. Both EEA and Norton Rose agreed that the problem was not severe, and that introducing fees would penalise the good behaviour of most carriers. Danish Aviation rejected the proposal on the grounds of complexity, and DCCA highlighted the problems in involving airports in the coordination process, also citing reduced transparency and increased complexity and cost. Finally, the Gatwick Area Conservation Campaign and an individual citizen suggested slot auctions as being the most effective way of encouraging efficient slot

use.

Question 12.2: Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.65 **Airline and airline associations:** ERA was the only respondent which explicitly forecast no impacts in any of these areas. British Airways predicted that the proposal would not lead to an increase in the uptake of slots, a view supported by another European carrier which predicted little or no impacts in this area. Another non-EU carrier predicted that 100% of unused slots would be returned before the deadline. NetJets suggested that reservation fees would be disadvantageous to it and other business aviation carriers, as it does not operate a routine programme and would therefore find it more difficult to compete. As indicated in the responses to 12.1 above, a frequently cited disadvantage of the proposal was that it would have no or limited impact on the proportion of slots actually used, although as also indicated above three carriers did acknowledge some positive impacts on slot utilisation. NetJets predicted the reverse – suggesting that the increased financial burden from reservation fees could have a negative effect on the use of slots. One non-EU carrier predicted that if more slots are returned mid-season this could allow operation of more non-scheduled flights. A business aviation association shareholder and flight operations manager predicted that market entry for new entrants would not be possible by means of fees or auctions. Another EU carrier predicted little or no impact in this area.

1.66 Administrative costs were the category of impact highlighted by most respondents, although no estimates of the magnitude of these costs were given. Several respondents highlighted negative competition impacts in terms of the disproportionate impact of the proposal on smaller carriers. One non-EU carrier predicted impacts in the form of charters and extra services. IATA emphasised that, were such a scheme applied only to European airlines, they would be placed at a significant disadvantage (and application to all airlines operating into Europe would set a difficult precedent for similar schemes worldwide). A number of carriers explicitly stated that there would be little or no impact on competition. Other impacts are largely covered in the responses to 12.1 above.

1.67 **Airports and airport associations:** Zurich predicted fewer slots being blocked for scheduled services. In its response the German Airports Association highlighted the positive impact of a similar instrument at Düsseldorf. As stated in 18.1, most airports believed that reservation fees were the most effective means of improving slot utilisation. Zurich predicted no impact on the mix of traffic, an increase in the per-slot administrative cost (as fewer would be requested) and a 'better competitive environment'. Another airport managing body predicted improved competition. Despite welcoming the potential reductions in overbidding, Manchester Airport suggested that airport traffic forecasting could become more difficult, as airlines would be discouraged from making early bids for slots. Finally, Zurich anticipated a more effective financing model.

1.68 **Slot coordinators:** The only substantial response was from EUACA, which indicated that dissuasive measures such as this would improve the use of scarce airport capacity. Airport Coordination Norway referred to its response to 12.1, which is described

above.

1.69 **Member States:** Four Member States provided responses to this question. One forecast an increase in utilisation, but increases in costs and consequent reductions in the competitiveness of EU carriers in comparison with others based elsewhere. Spain predicted a reduction in the difference between slots requested and operated, suggesting per-carrier reduction in the proportion of slots for which services would be scheduled, accompanied by an increase in utilisation. Some administrative costs were anticipated and it was believed that there would be some unknown competitive impact. DGAC France believed that, given their already high levels of slot utilisation, the effect on utilisation would not be significant. It also stated that the management costs for airports would only be acceptable if the financial gains from the fees were at least equivalent, and that the effect on competition could be negative, as carriers with limited funds might be deterred from operating at coordinated airports. Finally, ENAC believed that the proposal could improve slot mobility, which could improve the utilisation of airport capacity and even improve new carriers' chances of gaining slots.

1.70 **Other:** DCCA highlighted competitive impacts in terms of more slots being available at congested airports. Gatwick Airport discussed the impacts only of its auction proposal, which is not relevant here.

Option B3.2: Penalties for late handback of slots

Question 13.1: What would be the advantages and disadvantages of amending the Regulation to introduce penalties for late handback of slots? How should late hand-back be defined? Are there any alternative ways to incentivise on-time use of slots which we should consider? Please specify.

1.71 **Airline and airline associations:** Most carriers supported some form of penalty for late handback, but with allowances for extenuating circumstances and in some cases only where offences are repeated and intentional. One carrier also suggested that penalties should only apply at peak times or at the most congested airports, and one non-EU carrier proposed that sanctions should only be levied where such action has prevented another carrier from obtaining a slot. Some (for example ERA, IATA, British Airways and Thomson) stated that the Regulation already gives increased powers to Member States or via local rules to impose sanctions and should not therefore be amended specifically for this purpose, particularly as the problem is not widespread and impacts vary between airports. Others (for example Cathay Pacific, Condor and Ryanair) were more strongly opposed and did not consider that there was any need to amend the Regulation in this regard.

1.72 Where stated, most carriers understood late handback as being after the Slot Return Deadlines. Various exceptions were proposed: AEA and one other carrier suggested that slots not forming part of a series should be exempt, easyJet proposed that the definition should not apply to recycled slots and those only partly operated at the start of the season, and NetJets stated that programmed slots handed back 24 hours before operation should not be considered as late handbacks. Another EU carrier suggested that handback of slots two months before the start of the season should be allowed without penalty in future. easyJet and the business aviation association shareholders considered the most effective approach as being a stronger focus on giving offending

carriers lower priority for future slots. easyJet suggested that this stronger focus can be achieved through less ambiguous wording in the IATA WSG and the Regulation itself, and highlights a recently approved local rule at Gatwick which specifies this. An alternative proposed by NetJets is an increase in the 'use it or lose it rule' to 95% to liberate more slots.

1.73 **Airports and airport associations:** ACI Europe, the German Airport Association, BAA, Fraport and Gatwick Airport expressed clear support for widespread adoption of a sanction scheme, possibly similar to that in operation in Spain and the UK. Manchester Airport also highlighted the effectiveness of the UK system, and suggested defining late handback as being 4-6 weeks before the start of the season. Although not opposed to fees and sanctions in general, Zurich Airport believed that option B3.1 would be more effective, identifying difficulties in defining late handback and administrative costs associated with invoicing penalties. Schiphol did not foresee such a scheme to have any benefit, and suggested a more appropriate solution as being a 'name and shame' policy, complemented with offenders being given lower priority for slot requests the following season. The only other respondent not supportive of penalties was Oslo Airport, which suggested that problems were not sufficiently severe locally to warrant a change.

1.74 **Slot coordinators:** EUACA reiterated its response to Option B3.1, in which it urged consideration of dissuasive measures to address overbidding and late handback. ACD considered that sanctions should not be necessary, but added that the Regulation could include a fixed sanction which coordinators could levy for repeat offences. This was supported by Brussels Slot Coordination, which argued that intentional offences should be heavily penalised. SCA and Airport Coordination Norway stated only that the Slot Return Deadline is the relevant date.

1.75 **Member States:** Most States provided cautious responses to this proposal, tempered with additional caveats and considerations. Belgium believed that penalties should apply only for repeated or intentional handbacks (and that this should be defined), the UK only if were shown that this was a proportionate and practical response to a significant problem, Spain that the procedure should be applied in a transparent and uniform manner, France that it should only apply at the most congested airports and should be lower for handbacks closer to the return deadline, and Italy that carrier liability would have to be excluded in certain cases. Anticipated benefits comprised ease of implementation in comparison with reservation fees, better adherence to handback dates and increases in the number of pool slots allowing more ad-hoc or new entrant services. Potential disadvantages were that some carriers might be deterred from introducing new services, or that carriers might lodge appeals which could delay the allocation process. All of the stakeholders which referred to the definition of late handback agreed that this should be aligned with the slot return deadline set out in the IATA WSG. The Swedish Transport Agency highlighted the approach adopted in Sweden, where the coordinator compares slot allocation against the airline reservation system. If the two do not match a warning is sent to the carrier, and if a slot is subsequently returned late this is addressed in the coordination committee. The UK highlighted the effectiveness of its Misuse of Slots Enforcement Code, which may provide an alternative approach for adoption elsewhere.

1.76 **Other:** The Airport Regions Conference stated that sanctions would be effective if sufficiently high to discourage carriers from handling slots back late in order to

prevent competition. Danish Aviation stated that deliberate misuse could be penalised, although this would introduce the problem of separating deliberate from unintended infringements. EEA stated simply that it was unfair to penalise carriers for unexpected business conditions beyond their control, and Norton Rose suggested that the solution was better monitoring and implementation at the airport level, and DCCA suggested that late handback has not been a major problem in Denmark, but could be solved effectively elsewhere at the local level. Finally, the Gatwick Area Conservation Campaign did not support such penalties because they might encourage empty flights, and an individual citizen argued that the proposal was too complex, and the introduction of auctions would provide the necessary incentives.

Question 13.2: Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.77 **Airline and airline associations:** Few carriers submitted detailed responses to this question, particularly those which expressed opposition in 13.1. Only NetJets and a non-EU carrier discussed impacts in all areas, as outlined in the following text. One non-EU carrier suggested that the airlines would only apply for the slots they really required, and NetJets predicted that the proposal would lead to more efficiency in scheduling. IACA anticipated a small impact, and ERA and six carriers explicitly predicted very little or no impacts. As indicated above a number of respondents did not see any justification for this proposal and did not therefore predict any noticeable impact on slot utilisation. NetJets and the non-EU carrier predicted improvements in slot utilisation, potentially reducing the workload of the coordinators. IACA anticipated only a small impact on slot utilisation. Both NetJets and the non-EU carrier anticipated impacts on the mix of traffic. The non-EU carrier predicted that this would arise from an increase in availability of slots for ad-hoc operations, and NetJets suggested that the availability of penalties would in itself enable a wider mix of traffic. ERA, IACA and six carriers explicitly predicted very little or no impacts. The non-EU carrier and two EU carriers cited increased administrative costs (one of the EU carriers forecast the administrative burden to be considerable), and NetJets suggested that these should be borne by the coordinators. ERA anticipated no administrative cost impacts. Both NetJets and easyJet predicted that the proposal would increase competition at slot constrained airports by ensuring that slot usage was maximised and abuse by dominant carriers would reduced (NetJets suggested that the benefits would be enhance further if this was combined with an amendment of the 80/20 rule to 95/5). This was supported by a non-EU carrier, which suggested that if the proposal resulted in more slots becoming available there would be increased competition. ERA and six carriers explicitly predicted very little or no impacts. Other impacts are discussed in 13.1 above.

1.78 **Airports and airport associations:** This question was again not answered in detail by many stakeholders. BAA forecast greater efficiency in slot use, and that a greater proportion of slots could be reallocated if returned in time. It added that the SRD could also be moved forward to allow enough time for sufficient reallocation. The German Airports Association predicted that the proportion of slots returned late or not used at all may drop significantly. Manchester Airport cited impacts on competition, predicting that a greater proportion of slots could be reused by other airlines and

exclusionary behaviour would be discouraged. Again, respondents which did not recognise the need for such a proposal did not generally identify any impacts.

1.79 **Slot coordinators:** The slot coordinators did not respond to this question.

1.80 **Member States:** One Member State cautiously predicted longer-term increases in the utilisation of slots and DGAC France and DGAC Spain predicted reductions in late handbacks and overbidding. DGAC France added that this impact would be small, and that there would be no impact on the number of flights scheduled. Other impacts are reported in 13.1 above.

1.81 **Other:** The only other respondent to forecast impacts was DCCA, which suggested that the competitive impact may be that more slots would become available at congested airports. The Gatwick Area Conservation Campaign referred again to the impacts of its auction proposal.

Option B3.3: Strengthen powers of coordinators

Question 14.1: To what extent have slot coordinators used the power to withdraw slots from air carriers that repeatedly and intentionally operate air services outside the allocated slot times, and how effective has this been?

1.82 **Airline and airline associations:** A number of carriers failed to respond, or provided responses which did not address the question. Of those which did respond, most were unaware of any instances where the coordinators had withdrawn slots from carriers which had repeatedly operated outside their slot times, and could not therefore judge this to be effective. British Airways described the initiatives implemented in the UK and other States, but suggested that despite of this there was little evidence of slots having been withdrawn, although both British Airways and another EU carrier indicated that the threat of this had been effective. FNAM described the French sanction scheme, adding that the power of withdrawal was exercised sparingly and in very exceptional cases; and Condor described the clearly defined escalation model adopted by the German coordinator, again adding that slot were withdrawn only rarely. Cathay Pacific believed that monitoring of off-slot operations was widespread, but did not comment on whether slots were being withdrawn. Three other carriers agreed that coordinators were exercising this power, one carrier adding that most common response was the withdrawal of historic rights for the next season. One of these carriers suggested that where such actions have been taken results are possible and abuse is reduced. Malaysia Airlines suggested that such penalties are not very effective as there may be other economic and political pressures preventing the full implementation of any such ruling.

1.83 **Airports and airport associations:** Where a response was provided to this question, it was most commonly stated that the airport or association had no information. Manchester Airport believed that the UK sanctions scheme had been effective. Gatwick Airport indicated that no slots had been withdrawn by the coordinator at Gatwick for the reasons stated above, but added that some carriers had been fined under the sanction scheme for off-slot movements. Zurich Airport believed that the powers available to coordinators were generally effective for scheduled traffic, but that the powers with respect to general and business aviation were negligible.

1.84 **Slot coordinators:** Slot coordinators did not respond to this question.

1.85 **Member States:** The Belgian CAA suggested that these powers had been effectively used by the Belgian coordinator, but that it was not required to use them often. Similarly, ENAC and the Swedish Transport Agency stated that the option was rarely used in Italy or Sweden; and another Member State indicated that slots had been withdrawn by the coordinator but did not give an indication of frequency. It added that no change of the Regulation was needed in this regard, suggesting that existing powers were effective. France indicated that the French coordinator had not used the opportunity to withdraw slots, but had chosen instead to impose sanctions through the mechanism of the Administrative Committee of Civil Aviation (CAAC) (although no such sanctions have been applied since 2008). It added that the possibility of withdrawal as set out in Article 14.4 is in itself sufficiently dissuasive.

1.86 **Other:** DCCA stated that the option had not been used often due to their being a lack of such offences. The only other respondent – an individual citizen – stated only that the effects of such measures had been marginal so far.

Question 14.2: What would be the advantages and disadvantages of amending the Regulation to give the coordinators more powers to address late handback of slots? What additional such powers should coordinators be given?

1.87 **Airline and airline associations:** Many responses to this question reflected those submitted for question 13.1. Whilst many supported sanctions for genuine abuses, five carriers believed that such measures were best introduced at the Member State or local level through existing processes rather than requiring amendments to the Regulation. easyJet believed that airlines with an interest in acquiring future slots would not abuse slots at airports where they had a continued need in obtaining slots in future. One non-EU carrier expressed a concern that if national airlines acted as coordinators they could discriminate against competitor airlines; however, in reality, no airlines actually act as coordinators. ELFAA and fifteen airlines believed that there was no case for strengthening the powers of coordinators and no need to revise the Regulation. NetJets was one of the few carriers to comment on the nature of the additional powers, suggesting that these could include the ability to apply fines. A number of carriers emphasised that before any sanctions are imposed there must be clear evidence for abuse, and the airline should be allowed to explain the reasons for the perceived offence.

1.88 **Airports and airport associations:** ACI Europe and BAA expressed support for effective incentives to encourage the efficient use of slots, but did not state how such incentives should be implemented, and added that they should only be considered as a last resort for cases of sustained intentional abuse. Manchester Airport reiterated the benefits anticipated under 13.2, i.e. that a greater proportion of slots could be reused by other carriers and exclusionary behaviour would be discouraged. Another airport managing body suggested that the existence of such powers could in itself provide a sufficient deterrent. In its response Gatwick Airport highlights its Local Rule 4 as providing a useful template. The only airport to express opposition was Zurich, which believed that additional powers were not necessary as it was off-slot operation rather than late handback which was the primary concern.

1.89 **Slot coordinators:** EUACA re-iterated its general support of dissuasive measures as set out in its response to question 12.1. Brussels Slot Coordination highlighted the

benefits of the proposal, suggesting that it would improve the efficiency of the system if the coordinator was given the power to act without having to address the issue to the coordination committee or the State. SCA suggested a potential additional power as being the introduction of a reservation fee.

1.90 **Member States:** Belgium, France, Spain and the UK were generally supportive of this option, whereas Poland and Sweden and another Member State were not; the former two because existing powers were believed to be efficient, and the latter State because it believed that it was other organisations and not the coordinator which should impose penalties. The States which were in favour added certain conditions. Belgium and Spain emphasised the need for clear regulation and detailed guidance to avoid misinterpretation and to protect the coordinator in the event of complaints or mistakes. The UK urged careful consideration of the process and sanction and was concerned that powers should be used proportionately. Italy provided a detailed response to this question, but this related to a perceived proposal for increased powers to address off-slot operations. It argued that carriers could be financially harmed if denied the possibility of operating a given route, a large number of appeals could lead to uncertainty regarding the coordinators' handling of cases, any exclusion of carrier liability would need to be verified and a competent verification body established, and there may be practical difficulties in withdrawing slots from carriers whose membership fees finance the coordinators' activities.

1.91 **Other:** Norton Rose expected such a proposal to improve the efficiency of the system and reduce the scope for anti-competitive behaviour. DCCA was also generally supportive, but also stresses the need for objective criteria, and suggested involving national authorities to help ensure an objective system. Norton Rose did not believe that the Regulation should be amended, suggesting instead that guidelines on how to best address the problems of late handback would be useful in ensuring consistent application of the existing Regulation. The Gatwick Area Conservation Campaign again focused on auctions.

Question 14.3: Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.92 **Airline and airline associations:** In common with similar previous questions, many stakeholders did not prepare a response, particularly those which were not supportive of change. One EU carrier believed that the proposal would have a negative impact on all aspects of slot coordination. Eight carriers specifically stated that there would be very little or no impact on the proportion of slots for which services would be scheduled. One of the non-EU carriers suggested that the proposal could be beneficial in freeing up slots for genuine operators; this was supported by NetJets which predicted an increase in scheduling efficiency and use of slots. IACA predicted only a small impact in this area, and one EU carrier suggested very little impact in this area. Eight respondents specifically cited very little impact on the mix of traffic, whereas another suggested that it would allow new carriers to operate. NetJets predicted a greater mix of traffic, as the increased efficiency could improve access to slots, provided allocation was clear and transparent. Two carriers predicted an increase in administrative costs, and NetJets stated that any increase in costs should not be borne by the airlines. easyJet, NetJets and one of the non-EU carriers predicted beneficial

impacts on competition, NetJets adding that this would be generated by opening up the use of slots to a wider variety of aviation companies. Seven other carriers forecast very little or no effect. Other impacts are discussed in 14.2 above.

1.93 **Airports and airport associations:** Only Manchester Airports Group provided a relevant response, predicting that the effect of the proposal on its airports would be minimal.

1.94 **Slot coordinators:** EUCA re-iterated its general support of dissuasive measures as set out in 12.1.

1.95 **Member States:** Only DGAC France provided substantial comments additional to those already outlined in 14.2 above, stating that the impact would be dependent on the size of the penalty and the degree of lateness of the handback.

1.96 **Other:** Only DCCA provided a relevant response, which stated that the competitive impact may be a more efficient allocation of slots, hopefully leading to more becoming available at congested airports.

Option B4: Business and general aviation

Question 15.1: What approach have coordinators taken to allocating slots for business aviation operators?

1.97 **Airline and airline associations:** Almost all airlines and airline associations (scheduled and charter) agreed that business aviation is a growing segment of the aviation industry with equal rights to other operators and should therefore be permitted to gain historical rights, provided they meet the 80/20 rule. However, these airlines argued that business aviation should not be given any preferential treatment owing to the nature of its operations. Several stakeholders (including Ryanair and ELFAA) emphasized that business aviation should be restricted to use secondary or under-utilised airports to free up capacity and reduce inefficient movements at major airports. ELFAA also emphasised that it would be unfair for business aviation to be allocated slots as a sector, and ELFAA and Air France argued that business aviation must meet the same criteria for slot allocation as other users.

1.98 In contrast, business aviation operators argued through EBAA that the current situation is unfair because operators never have the means to protect its historic usage of particular runway capacity at a given airport. NetJets also perceived inconstancies between the regulators on whether or not it was entitled to historical rights to slots, with France granting these rights but the UK and Switzerland refusing them.

1.99 **Airports and airport associations:** Almost all airports and airport associations highlighted the fact that slot coordinators treat business aviation and general aviation in the same way as other operators, which does not suit these operators because by definition their operations are very variable. ACI Europe also pointed out that business aviation and general aviation operations do not necessarily need to take place at major airports therefore alternative locations can also be easily used.

1.100 **Slot coordinators:** Respondents stated that business and general aviation operators

are granted slots in the same way as scheduled carriers. However, they acknowledged that few business operators would be able to successfully operate series of flights as required to obtain historic preference. EUACA pointed out that coordinators had taken different approaches when confronted with different situations, but did not provide specific examples. It also called for greater clarity of Art 2(f)(i) as it believes there are several interpretation of 'historics'.

1.101 **Member States:** All Member States responded by stating that the business and general aviation operators could obtain and retain slots in the same manner as other carriers, but they declined to comment on the ease with which these operators can secure slots at the most congested airports. However, the UK stated that for Heathrow and Gatwick airports the coordinator also had to follow specific rules (Traffic Distribution Rules 1991) applying to business and general aviation during periods of peak congestion. DGAC France also noted that business and general aviation operators should have no issues with obtaining slots because all coordinated French airports are part of a double or triple airport networks where the smallest airport is naturally dedicated to business aviation. In the few instances where these dedicated platforms have become congested, local slot allocation rules have been enforced in order to preserve slots for the occasional users. The Swedish Transport Agency said that at Stockholm Bromma airport there is an hourly quota for business aviation slots.

1.102 **Other:** The other stakeholders did not respond to this question

Question 15.2: What would be the advantages and disadvantages of amending the Regulation to allow business/general aviation to obtain historic preference on the basis of the total number of business/general aviation flights operated? If implemented, how should this function? What, if any, administrative costs would this generate?

What are the advantages and disadvantages of reserving a number of slots per hour to business aviation operators?

1.103 **Airline and airline associations:** Almost all commercial airlines and airline associations emphasized that business and general aviation operators should not be entitled to greater rights than scheduled carriers, as this would be an inefficient allocation of scarce capacity and would reduce punctuality, whilst these operators can choose to fly to a secondary airport in most cases. The European Business Aviation Association and NetJets argued that owing to their nature there is a need to reserve a fixed number of slots per hour for business and non-scheduled aviation at fully coordinated or schedule facilitated airports by creating a business aviation pool. The allocation would be based on historic usage, declared capacity and would be consistent with IATA scheduling conferences. Once a number of slots have been reserved, the rules of the modified Regulation would apply and a position of EBAA slot manager would be created to interact with coordinators and national authorities. NetJets also stated that it should be allowed to apply for historical rights by itself if able to maintain an adequate historical pattern.

1.104 **Airports and airport associations:** All airports and airport association argued that business and general aviation should not be entitled to grandfather rights, as this would result in less efficient use of airport capacity. It was suggested that local rules could be established at airports with high proportions of business or general aviation

traffic if desired.

1.105 **Slot coordinators:** Nearly all coordinators argued that reserving a number of slots for business aviation operators would be wasting valuable airport capacity. Brussels Slot Coordination also argued that business operators were no different to ad-hoc charter operators and additional scheduled flights, and should therefore be treated on the same basis. It also raised the two practical issues of what would happen when the specific business/general aviation slots are full and how best to decide on a fair allocation of business aviation slots. COHOR suggested incentivising ANSPs to free up capacity to the slot coordinator on a day-to-day basis if possible without historic rights. Only the airport coordinator in Norway stated that there would be no difficulties in introducing such a scheme.

1.106 **Member States:** Most responding Member States did not support this proposed, as it would favour a specific sector of the market, risk scarce slots being inefficiently utilised, or be difficult to manage. Spain and Greece argued that the issue would be best solved at the local level. The UK suggested that allowing bodies other than airlines to purchase slots on the secondary market could be a possible solution if shown to be fair, transparent, workable and not running the risk of under-utilisation. One Member State stated that reserving a number of slots per hour would be a solution, but acknowledged that this should not be allowed to harm the efficiency of other operations.

1.107 **Other:** All other commentators shared the view that reserving a number of slots to business aviation operators would have a negative impact and lead to preferential treatment, which seems against the equality principle. Most argued that the operators could easily use secondary airports provided that runway capacity is available at affordable prices. DCCA also believed that it would have a negative impact on competition between commercial airlines.

Question 15.3: Should the current definition of business aviation in the Regulation be changed or updated and if so, in what way?

1.108 **Airline and airline associations:** No commercial airlines and airline associations recognised the need to change the definition. In contrast, EBAA believed that it should be amended to that used by the International Business Aviation Council, namely 'the sector of aviation which concerns the operation or use of aircraft by companies for the carriage of passengers or goods as an aid to the conductor of the business, flown for purposes generally considered as not for public hire'. NetJets stated that it depended on how the definition would be used in the Regulation; currently the Regulation is only relevant where business aviation operates according to a schedule. In general NetJets believed the definition should be aligned with that of European safety and security legislation.

1.109 **Airports and airport associations:** Most airports that responded to this question believed that the current definition should be kept; however one airport operator said that it should be defined more precisely.

1.110 **Slot coordinators:** Coordinators expressed varying opinions. Airport Coordination Norway believed the definition was adequate, whereas EUACA and SCA highlighted

that the Regulation should be clarified to take into account developments with the business aviation sector. Brussels Slot Coordination believed that traffic should not be sub-categorised further, and that the only important issues were to define series and ad-hoc flights.

1.111 **Member States:** Sweden and another Member State believed there was no need for change, whilst France, Greece, Poland and Spain supported clarifications; albeit with some caveats. France added that the issue seemed to go beyond the context of the Regulation, and Poland that revision might be needed if the rules on allocating business/general aviation slots were amended. Other States did not express any opinion.

1.112 **Other:** The few other stakeholders who expressed an opinion believed that no change in definition was necessary.

Option B5: Operations without slots, or at times significantly different from the slot

Question 16.1: To what extent, and how, have ATM authorities made use of their existing power to reject flight plans where an air carrier intends to use an airport without having an appropriate slot?

1.113 **Airline and airline associations:** Eleven respondents stated that the operational and planning processes associated with slot management are currently completely independent from one another and satisfy their own objectives; and Condor believed that ATC was not able to reject flight plans for off-or no-slot operations. British Airways suggested that this power was 'not used greatly' by ATM authorities, and four other EU carriers suggested that for some special events (e.g. the Euro 2008 in Austria and Switzerland) and at certain airports flight plans have been rejected if no slot had been allocated. One of these carriers also added that ad-hoc occurrences had been noted in Spain.

1.114 **Airports and airport associations:** Manchester and Gatwick airports believed that the UK slot sanction scheme dealt effectively with this issue. Another European airport managing authority stated that flight plans had not been rejected for this reason, and Zurich Airport suggested that ATM was only interested in ATC and not airport slots.

1.115 **Slot coordinators:** All coordinators suggested that this power was used only rarely, or not at all. ACD and Airport Coordination Norway stated that this power has not been applied, ACD stating that ATC used its information only to plan its staffing levels, and Airport Coordination Norway adding that there was not a culture of enforcement among ATM employees. EUACA, Brussels Slot Coordination and COHOR believed that ANSPs usually refrain from taking such action except in special circumstances.

1.116 **Member States:** The Belgian CAA stated that Belgium will soon start the implementation of Article 14 for flights departing Brussels Airport. The UK stakeholders believed that there is no mechanism to reject flight plans on this basis because flight plans are filed with the CFMU which has no means of correlating flight plans with airport slots. The Hellenic CAA, DGAC France and the Swedish Transport Agency stated that this has not occurred in their respective States, in the case of Sweden because problems have been corrected through dialogue between the

coordinator and operators. One Member State indicated that airborne operators would not be refused by its ATM authorities for reasons of safety. DGAC Spain indicated that regular comparisons between flight plans and slots are only conducted at Madrid Barajas and Palma de Mallorca, but it did not state whether this process has resulted in rejection of flight plans.

1.117 **Other:** Other stakeholders did not provide relevant responses to this question

Question 16.2: What would be the advantages and disadvantages of amending the Regulation to allow airports or the central unit for air traffic flow management to refuse to allow a flight to operate if it does not have an appropriate slot? What, if any, administrative costs would this generate? What could be the operational impacts of such a measure?

1.118 **Airline and airline associations:** Most carriers took the view that current means of addressing abuse were sufficient and that no additional measures were required. Many stakeholders highlighted that the issue had already been discussed in connection with the Single European Sky ATFM implementing rule and had already been rejected for reasons of practicability. Few respondents indentified advantages, although easyJet stated that it would support an amendment which required initial (as opposed to on-the-day) flight plans to be consistent with airport slots; a number of carriers cited the impracticability of refusing flights which were already en route. Only the EBAA, Condor and NetJets were broadly supportive, with EBAA and Condor adding that such powers should apply only to flights without slots and not off-slot operations. Carriers were more supportive of granting powers to ATC than airport authorities, as these are commercial entities with their own interests, and in any case have other means at their disposal to reject flights (for example by allocating remote parking, not providing handling services or banning carriers). British Airways suggested that involving ANSPs or airport authorities in the slot coordination process would undermine the independence of the coordinators and complicate the process. Several respondents suggested alternative approaches – two carriers preferred reprimands after the offence, possibly with increasing punishments for each repeat offence. One non-EU carrier predicted more administrative work and staff costs for ATC and CFMU and Condor anticipated considerable costs in connecting coordinator and ATC IT systems; whereas NetJets did not believe that the proposal would produce any significant expenses or any significant operational impacts. Cathay Pacific highlighted some practical issues – although flight plans are forced to change frequently it is difficult (if not impossible) to continually change the associated slots.

1.119 **Airports and airport associations:** These stakeholders were more commonly in favour of the proposal. Oslo and Zurich airports expressed the clearest support, Oslo stating that the proposal would be an improvement as refusal to operate was the best form of enforcement available, and Zurich that CFMU should not only be given the right but the duty to refuse flights without or significantly off-slot. ACI, BAA and Fraport stated that within the framework of A-CDM the participating authorities should have the competencies to reject flights which are intentionally operated without slots, but called for clarification of what correct slot usage actually is. One airport authority suggested that the approval process for flight plans should also include a verification of whether a slot formed part of the plan. Schiphol was opposed to

airports being granted this role, adding that the airport is a provider of infrastructure and not an enforcement body. Manchester Airport did not believe that changes were required, and that the existing processes were fit for purpose when slot coordinators function properly. Only Zurich Airport made reference to costs, identifying that these would be generated by linking airport slots data into the CFMU.

1.120 **Slot coordinators:** All respondents were generally in favour of the proposal, with certain caveats. COHOR highlighted the problems associated with rejecting flight plans after ATFM acceptance, suggesting that the solution would be more effective if applied in the initial validation process. Brussels Slot Coordination suggested that the CFMU would be the more appropriate body given its independence and the lack of commercial pressure by its customers. SCA took the opposite view, emphasising that only one organisation should decide, but that this should be the coordinator. The Belgian coordinator also highlighted the costs of investing in a common database.

1.121 **Member States:** The Member States expressed a divergence of views in response to this question. Advantages were cited by Belgium, Greece, Poland and Spain; and comprised additional efficiency, 'operational benefits', improvements in the flow of traffic and forcing carriers to adhere to the timings of their slots. Disadvantages were cited by Belgium, Greece, Italy, Poland and another Member State; comprising additional monitoring costs, disruption to passengers and other flights, loss of flexibility to respond to extraordinary events and 'additional macroeconomic costs'. Some practical issues were also highlighted by several states; most commonly which organisation should be responsible for the refusal of flight plans. DGAC Spain stressed that only one organisation should be given this role, DGAC France could be supportive if powers were given to the CFMU (but not airports), and others referred only to the CFMU or ATM authorities in their response. DGAC Spain and another Member State drew a distinction between 'no slot' and 'off slot' operations, the latter suggesting that 'off slots' should be allowed to proceed, but that the CFMU should refuse the flight plans of 'no slots'. The UK CAA / DfT suggested that the appropriate solution was not to amend the Regulation, but to devise a suitable mechanism to allow the correlation of flight plans and slots

1.122 **Other:** PANSA was the most supportive of the proposal, suggesting that it would be beneficial for the optimisation of airspace availability, although highlighted that the CFMU would then become a party in the coordination process. Norton Rose believed that Article 14.1 already granted sufficient powers for the refusal of flights without appropriate slots, and Danish Aviation stated that the ATM authority was the correct organisation to address such issues. Despite citing costs associated with upgrading the CFMU for its expanded role, one citizen believed that these would be offset by the benefits to society of better use of capacity and less engine running time.

Option C1: Define the ownership of slots

Question 17: Does the current lack of definition of ownership of slots cause any problems for the slot allocation system? If so, how? What would be the advantages and disadvantages of amending the Regulation to introduce a definition of the ownership of slots? What, if any, administrative costs would this generate?

1.123 **Airlines and airline associations:** Almost all airlines and airline associations argued that it was not necessary to define the ownership of slots in any more detail than the current Regulation does. Airlines believe the Regulation currently works well without any definition, and in particular noted that the lack of a definition has not precluded the development of a secondary market in slots. However, two airlines disagreed. easyJet suggested that making clear that airlines own the slots (which in economic terms is the result of the current arrangement) would facilitate secondary trading in slots, and NetJets said that it would reduce ambiguity, although did not explain what actual benefits if any it expected.

1.124 **Airports and airport associations:** A number of airports and airport associations argued that the airports should own the slots. Where any justification for this was given, it was that the airport invests to create the capacity (slots). Fraport argued that the airport should obtain a share of revenue from slot auctions or secondary trading. However, this view was not held by all airports: Schiphol Airport argued that a definition was not required, and could create perverse incentives to restrict capacity growth. BAA also argued that the lack of any definition had not created problems, and Zurich Airport raised a concern that if ownership was defined, the airport would face compensation claims if, due to constraints, the number of slots had to be reduced.

1.125 **Slot coordinators:** The coordinators all believe that it is not necessary to define the ownership of slots and the current Regulation works well without this.

1.126 **Member States:** Most States considered that the lack of definition of the ownership of slots had not been a problem. France said that the focus should be on specifying transparent procedures for allocation and utilisation of slots, rather than ownership; it noted that the Regulation worked very well without this issue being defined. The UK government argued that the lack of any definition of ownership had not been a problem for the day-to-day operation of the Regulation but emphasised that if ownership was to be defined, the interests of the State should be considered. Greece argued that a definition had not been necessary so far, although it might be necessary to define this if slot trading was introduced. Italy said that a definition created at Community level could create conflicts with national legal systems.

1.127 **Other respondents:** The Airport Regions Conference argued that the ownership of slots was important for regional connectivity and the Commission should consider how to ensure this, for example through PSOs. The French Competition Authority argued that defining slots as being owned by airlines could result in strengthening the position of dominant incumbents. The Danish Competition and Consumer Authority stated that ownership should be defined as part of a general revision to the process for allocation of slots, including withdrawal of grandfather rights, in order to facilitate market entry. There was no consensus amongst other stakeholders who responded, with some arguing that a definition would be helpful and others arguing that it was unnecessary.

Option C2: Introduce an EU-wide regime of secondary trading

Option C2.1: Introduce secondary trading at all EU airports

Question 18.1: What impact has secondary trading had, in particular, on usage of

slots, mix of services operated, and competition?

1.128 **Airlines and airline associations:** Almost all of the airlines and airline associations that expressed any views on the impact of secondary trading believed that it had been positive, in that it had increased the liquidity of the slot market, provided a means for new entry, and made the utilisation of slots more efficient. However, two non-EU carriers argued that secondary trading was unfair to small carriers. Many airlines emphasised that it was not necessary to change the Regulation in order to allow secondary trading: some argued that it would have limited benefits at airports other than Heathrow, as demand for slots does not exceed supply at these airports, and airlines would always be reluctant to sell their peak slots.

1.129 **Airports and airport associations:** There was no agreement amongst the airports and airport associations that responded, and many did not express any views on the impact of secondary trading. ACI and BAA argued that secondary trading should be explicitly permitted, subject to some conditions, principally that trading should only be possible for historic slots and between air carriers, that trades should be checked with the coordinator and airport to ensure that there was sufficient capacity in all elements of the airport system (for example, a trade could be between two airlines which use different terminals or different aircraft types), and that there should be transparency about the trade. However another major airport group argued that secondary trading would distort competition by creating a barrier to entry, limit the growth in air traffic, create perverse incentives if slots could be held by intermediaries, and generate operational difficulties for airports if trades were not operationally possible (for example, between Schengen and non-Schengen carriers).

1.130 **Slot coordinators:** Most coordinators did not express any views on the impact of secondary trading as it was not occurring at the airports at which they operated. Airport Coordination Denmark stated that secondary trading would lead to fewer local/commuter services, and Brussels Slot Coordination stated that it would exclude small operators and competitors of the seller. EUACA, representing all coordinators, argued that trading had resulted in better use of slots at Heathrow but it had not had significant impacts elsewhere.

1.131 **Member States:** The UK argued that secondary trading had had significant benefits at Heathrow and Gatwick, enabling airlines to respond to changing market conditions and enhancing competition by increasing the liquidity of the slot market. It noted that, as a result of secondary trading, Virgin Atlantic had been able to grow at Heathrow and low cost carriers at Gatwick, despite severe slot constraints, and that this had enhanced competition. In contrast, France argued that secondary trading would be a source of complexity and would not lead to a diverse air transport offer, or an optimal allocation; it also emphasised that, if there is trading, it should be transparent. Other Member States did not express any opinion, in some cases stating that this was because secondary trading did not occur in their States.

1.132 **Other stakeholders:** DCCA argued that secondary trading was beneficial as it resulted in more slots becoming available at congested airports, but the lack of transparency could have a negative impact on competition. The law firm Norton Rose argued that it had resulted in more efficient use of airport capacity in the UK and the USA but there was a risk it could enable the dominant carrier to increase its share of slots. Most other respondents did not answer this question.

Question 18.2: What would be the advantages and disadvantages of amending the Regulation to explicitly state that secondary trading in slots is permitted at all EU airports?

1.133 **Airlines and airline associations:** Many airlines and airline associations did not respond to this question, referring to their answers to the previous question. Those that did respond were divided between some who considered that it would be helpful to explicitly authorise secondary trading, so that this could take place at non-UK airports and in order to improve transparency, and those that considered it was not necessary to amend the Regulation as secondary trading can already take place.

1.134 **Airports and airport associations:** Again, many airport operators did not express any view. Of those that did, Fraport, Gatwick and Schiphol argued that formalisation of secondary trading would be a benefit, in terms of increased efficiency in slot allocation, and improved transparency. Manchester Airport Group stated it opposed secondary trading between airlines because it believed that the slots should belong to the airport, but it did acknowledge that secondary trading might lead to a more efficient allocation where capacity was scarce. Another airport operator said that secondary trading would make it more difficult for new entrants to obtain slots.

1.135 **Slot coordinators:** EUACA stated that it had no position on this issue and most coordinators did not express any view. SCA and Airport Coordination Norway said that it would be beneficial for transparency and to make the Regulation less ambiguous. Brussels Slot Coordination said that it considered trading should be prohibited, but if it was not, it should be more transparent.

1.136 **Member States:** The UK argued that it was not necessary to revise the Regulation in this regard, and that any further regulation of trading could reduce the liquidity of the slot market; however, it argued that if the Regulation was to be changed, the need for carriers to engage in artificial exchanges should be removed. Sweden considered that this could lead to more efficient capacity utilisation, but that there was a risk of limiting access to new slots to financially weaker companies. Spain said that the Regulation should be clarified in this regard, and that if trading was permitted, it should be subject to prior agreement of the coordinator and only trading of historic slots should be permitted. Finland said that it did not favour secondary trading, but if it was introduced, ownership of slots had to be clarified. Italy argued that secondary trading could create problems in terms of defining the legal ownership of a public good; and that large carriers might be the only ones with sufficient means to participate in the slot market. It also believed that the price paid for slots might be shifted by airlines onto passengers. France said that the impact would be limited as it would merely update the Regulation to reflect current practice; however, it would be important that the rules of the exchanges remained the same and that competition authorities could retain an appropriate enforcement role; it was also concerned that it could lead to speculative requests for slots.

1.137 **Other stakeholders:** The French competition authority stated that secondary trading would increase utilisation of slots and increase capacity, through increases in aircraft size; it estimated that the number of passengers handled at major airports in France could increase by 7%. However, it also noted that it could further strengthen the position of dominant incumbent airlines. Most other stakeholders that expressed any

opinion also argued that the legalisation of secondary trading would be beneficial. However, the Gatwick Area Conservation Campaign argued that there should be no secondary trading, and that slots should be auctioned with discrimination against operators that take less account of environmental impacts.

Question 18.3: Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.138 **Airlines and airline associations:** Most airlines and airline associations did not answer this question, referring to their answers to the previous questions. Some non-EU carriers expressed a concern that secondary trading might lead to non-EU carriers being excluded, due to the greater market power of EU airlines. There was no agreement as to whether the impacts on competition would be positive, with easyJet suggesting secondary trading would encourage new entry, and Condor suggesting secondary trading would strengthen the power of incumbents.

1.139 **Airports and airport associations:** Almost all airports and airport associations also did not answer this question. The only airport representative to give a detailed answer was the German Airports Association, which noted that the experience at Heathrow has been short haul flights with small aircraft being replaced with long haul flights with large aircraft. It argued that the issue of secondary trading should be addressed as part of the revision to the Regulation but that it should be subject to some conditions (equivalent to those proposed by BAA and ACI – see under question 18.1 above).

1.140 **Slot coordinators:** The coordinators did not comment on the impacts, other than Airport Coordination Denmark, which repeated that there might be fewer local or commuter flights.

1.141 **Other stakeholders:** Most others, including all Member State and regional and local government respondents, also did not express any opinions on the impacts of secondary trading. However, the Danish Competition and Consumer Authority argued that secondary trading should lead to a more efficient allocation of slots and more slots being available at congested airports.

Option C2.2: Limit restrictive covenants

Question 19.1: What would be the advantages and disadvantages of amending the Regulation to prohibit the placing of restrictive covenants on slot transfers?

1.142 **Airlines and airline associations:** Most airlines and airline associations said they believed that restrictive covenants in slot trades did not exist, and almost no airlines supported a prohibition on restrictive covenants. ELFAA and British Airways argued that anti-competitive restrictive covenants would already infringe competition law. Air France argued that any restriction on slot trading would reduce the (already low) number of transactions and Condor argued that such a prohibition would lead to airlines only selling slots to airlines that they were confident would not compete with them. However, easyJet said that there would be no disadvantages in prohibiting restrictive covenants.

1.143 **Airports and airport associations:** Most airports and airport associations did not respond to this question. Gatwick airport said that there was a risk that any regulation could lead to efficient slot trades not occurring, and that competition issues should be dealt with through general competition law. Amsterdam Schiphol airport said that the terms of slot trades should be left to airlines, although the terms should be in line with competition law.

1.144 **Slot coordinators:** Most slot coordinators did not express any opinion. However, Brussels Airport Coordination argued that the European Commission in effect imposed restrictive covenants on airlines, by requiring that slots divested as conditions for airline mergers be used for specific routes.

1.145 **Member States:** The UK said it would support a prohibition of restrictive covenants if there was evidence that restrictive covenants were having a negative impact on competition and efficiency, and those covenants were legally enforceable, and provided that prohibition would not deter trading. Sweden stated that it was not aware of any such restrictions existing but would support prohibition. France argued that restrictive covenants would already infringe competition law. Poland and Italy said that it should not be possible to impose restrictive covenants.

1.146 **Other stakeholders:** The French Competition Authority believed that if secondary trading was authorised but non-compete agreements created an obstacle to the efficient use of slots, then they should be prohibited. The law firm Norton Rose LLP advised that competition law at national and European level was already sufficient to address anti-competitive impacts of such clauses. DCCA believed that slot use should be unrestricted to promote competition, but this might result in airlines being less willing to exchange slots. Most other stakeholders, including the two regional and local government respondents, did not address this question.

Question 19.2: Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.147 **Airlines and airline associations:** Most airline representatives did not respond to this question, and most of those that did argued that there would be no impacts. A small number of airlines stated that this would be positive in terms of the impact on competition.

1.148 **Airports and airport associations:** BAA, ACI and the German Airports Association responded in equivalent terms that “the existing safeguarding covenants to slot transfers should remain in place”. Other airport representatives did not respond to this question.

1.149 **Member States:** Member States did not respond to this question, or stated that they did not have any views on what the impacts would be.

1.150 **Other stakeholders:** Other stakeholders, including the slot coordinators, did not respond to this question.

Option C2.3: Require post-trade transparency

Question 20.1: What degree of transparency regarding slot trades is required to encourage slot mobility? What would be the advantages and disadvantages of amending the Regulation to require transparency about slot trades, including the identities of the carriers, any payment or other consideration and whether the exchange is permanent or a lease?

1.151 **Airlines and airline associations:** Most airlines and airline associations believed that no further transparency about trades was required, and of those that argued that there should be more transparency considered that confidential and commercial information, such as the price that had been paid, should not be released. Two cited the slottrade.aero website covering UK airports and suggested the same level of information should be available on secondary trades at other airports. The only airline to state that price information should be published was Air France.

1.152 **Airports and airport associations:** ACI, Fraport and BAA responded in similar terms that full transparency was required, including the price and any conditions attached. Manchester and Gatwick airports also argued for full transparency. However, Schiphol said that only the fact of the exchange and whether it was temporary or permanent should be published; any other requirements could lead airlines to artificial exchanges to get around the requirement.

1.153 **Slot coordinators:** Most coordinators did not provide detailed responses, but supported the principle of transparency. EUACA responded that the IATA rules on transparency should be followed.

1.154 **Member States:** The UK noted that there already was transparency about what trades took place through the slottrade.aero website. It did not support airlines being required to disclose price information, because it would deter airlines from participating in trading (which it believed generates consumer and competitive benefits), and it also believed that this was impractical as slots would often be sold as a package and the deal might include non-monetary elements. France supported transparency, including about the price, although believed there could be a disadvantage if this was transparent at EU airports but not non-EU airports. Italy believed that details should only be disclosed to the coordinator and the CAA. Poland stated that information should be equally available; and Sweden said that there should be as much transparency as possible.

1.155 **Other stakeholders:** The French Competition Authority believed that transparency could be required, including about the nature of the transaction and the price. The law firm Norton Rose stated that the details of the transfer should already be clear to the coordinator and should be available to other parties, but that pricing information should not be disclosed. The Aviation Environment Federation believed that transparency would assist the functioning of the market. Most other stakeholders did not respond to this question. An individual citizen argued that transparency was not necessary as the information was commercial and confidential.

Question 20.2: Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of

traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.156 **Airlines and airline associations:** Most airlines and airline associations either believed that requirements for greater transparency would have not impact, or did not respond to this question. NetJets Europe argued that transparency would reduce the risk of abuse of a dominant position and therefore improve scheduling and the mix of traffic.

1.157 **Airports and airport associations:** Almost all airport representatives did not respond to this question. However, the German Airports Association emphasised that transparency was essential; it believed that high value slots had been exchanged and there probably would have been compensation but this was not clear.

1.158 **Slot coordinators:** Most coordinators did not respond to this question. Brussels Slot Coordination believed that transparency requirements would lead to more slots being returned to the pool.

1.159 **Member States:** France stated that transparency would not impact any of the issues raised in the question, but was nonetheless important to provide information to the coordinator and the authorities. Other States did not express any views.

1.160 **Other stakeholders:** Other stakeholders generally did not respond to this question, apart from the Gatwick Airport Conservation Campaign which argued that banning slot trading would improve efficiency.

Option C2.4: Centralised auctions to exchange slots

Questions 21.1: What would be the advantages and disadvantages of amending the Regulation to replace the current system of decentralised, bilateral slot exchanges with centralised auctions of slots that carriers wish to give up?

1.161 **Airlines and airline associations:** Almost all airlines and airline associations opposed this proposal. For example, Ryanair argued that slot auctions would make the process more complex and costly, and produce no benefits for anyone. AEA and several network airlines said that no restrictions should be placed on secondary trading, as this would lead to airlines being less willing to sell slots, and thereby reduce the potential benefits of increased liquidity. British Airways said that any argument that auctions generate a more efficient allocation of capacity depend on an assumption that the aviation market operating in a commercially rational way, which it does not, due to some airlines receiving State support, and restrictions in bilateral agreements. However, NetJets supported auctions and argued that business aviation must be able to bid for and retain slots, rather than these being allocated on a historic basis to incumbent airlines.

1.162 **Airports and airport associations:** There was no agreement amongst airport operators in response to this question. Schiphol believed that secondary trading should be allowed to complement the existing administrative allocation but that no restrictions should be placed on it, as this would just lead to artificial exchanges. ACI, Fraport and BAA responded in similar terms that a detailed impact assessment would be required. Gatwick stated that the impact on competition should be positive, but

Oslo Airport Ltd believed any auction would disadvantage small and regional carriers, with no benefits for competition. Manchester and some other airports said that the proceeds from auctions should not flow between air carriers as the infrastructure belongs to the airports.

1.163 **Slot coordinators:** Slot coordinators generally did not respond to this question. SCA said that auctions should not be centralised and that subsidiarity was required.

1.164 **Member States:** The UK believed that centralised auctions would reduce the fluidity of the slot market and hence the volume of trades. Spain also said that it could reduce the volume of trades, and it would not be possible to achieve swaps of slots of different values. Sweden believed that auctions would increase transparency and the proper functioning of the market. Belgium stated that it did not support auctions as these would not solve the capacity problem and would make the system more complex and expensive. Another Member State said that no auction was necessary as the slot could be reallocated by the coordinator. France emphasised that it was opposed to any auction system, however it was organised, due to the potential for instability, increased market concentration, and the risk of increased market entry by non-EU airlines. It pointed out a study of potential for market mechanisms had been undertaken in France which concluded that a slot auction would be unworkable due to high transaction costs and the complexity of the process.

1.165 **Other stakeholders:** The French Competition Authority stated that, if secondary trading was introduced, it should be organised by coordinators or regulatory authorities. DCCA noted that this proposal would increase access to slots but reduce the volume of trades, as airlines might 'babysit' slots rather than release them to an auction where a competitor could obtain them. Norton Rose argued that any centralised auctions would distort competition and further strengthen the position of dominant airlines. The Danish Aviation trade organisations said that the current Regulation works well and there is no need for any such amendment. The Aviation Environment Federation supports auctions as it believed a local exchange would lead to sub-optimal allocation.

Question 21.2: Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.166 **Airlines and airline associations:** Many airlines and airline associations did not respond to this question, and those that did, did not respond in detail. Of those that responded, most said the impact of centralised auctions would be to reduce the volume of trades. ERA said that centralised auctions would result in services to the regions being squeezed out and replaced with long haul flights by non-EU airlines that could make the highest bids. However, NetJets said that a centralised auction would be good for competition and maximise usage of slots.

1.167 **Airports and airport associations:** ACI and the German Airports Association said this question could not be answered without a comprehensive analysis of the general framework of the auctioning process and its impacts. Oslo Airport Ltd said that this would increase costs without other advantages. Manchester Airport Group said it

would have no impact at its airports other than imposing unnecessary costs and administrative processes. Other airports did not respond to this question.

1.168 **Slot coordinators:** The slot coordinators did not respond to this question.

1.169 **Member States:** The Member States did not respond to this question.

1.170 **Other stakeholders:** Other stakeholders did not respond to this question, other than the Gatwick Airport Conservation Campaign which reiterated its support for auctions.

Question 21.3: Who should manage these auctions, and why?

1.171 **Airlines and airline associations:** Most airlines and airline associations did not answer this question, or only reiterated their opposition to any type of auctions. Those airlines which did address the question directly said that the auction should be managed by the coordinator or another neutral body.

1.172 **Airports and airport associations:** Gatwick Airport said that the auction should be managed independently from the airlines, with airlines not having access to information about the identity of individual bidders. Oslo Airport Ltd and Manchester Airport Group said that as the airport owns the slots it should manage the auctions; Manchester said that the auction could also be managed by the coordinator. Other airports did not respond to this question.

1.173 **Slot coordinators:** SCA said that the auctions should be managed by the coordinator. Other Slot coordinators did not respond to this question, other than Brussels Slot Coordination which reiterated that it did not believe slot trading was a solution to increase the number of movements.

1.174 **Member States:** Spain said that the airport operator had expressed its interest in having a leading role in a possible auction system, as in any process that entails the trading of the capacity that it has created. Poland said that ideally there would be a single, centrally administered system for all European airports. Italy said that the coordinator should manage the auction. France said that the auctions would have to be performed by an organisation with established experience in competition, which would not be the coordinator. Other States did not respond to this question.

1.175 **Other stakeholders:** An individual citizen argued that the primary market should be managed by airport operators, which it believed would also lead to greater competition among airports and therefore better use of capacity. Most other stakeholders did not answer this question.

Option C3: Two stage hybrid auction process for slot allocation

Question 22.1: What would be the advantages and disadvantages of amending the Regulation to replace the current system of administrative allocation of slots with a two stage hybrid system, by which carriers would bid for scheduling rights, followed by an administrative allocation of these slots between the carriers that had scheduling rights?

1.176 **Airlines and airline associations:** There was almost universal opposition amongst airlines and airline associations to this proposal, with many airlines providing detailed responses. Many including Cathay Pacific, Ryanair, Thomson, Air France, FNAM and IACA said this would introduce complexity with little added value. Others including AEA said that the concept of 'broad time windows' was of no use in airline scheduling when precise timings were required.

1.177 British Airways pointed out that auctions for 3G mobile phone licenses had produced substantial revenues for government but was damaging for the bidders that paid too much; there was a risk that airlines would overpay to ensure that they obtained workable schedules, but would then face financial problems.

1.178 IATA, British Airways and others said that this proposal would be unworkable as the airline would need to simultaneously secure matching slots at each of a route, which would mean that the auction would have to take place in parallel at every European airport and be followed by a separate process to optimise time slots. IATA, FNAM, Malaysia Airlines and others also pointed out that this would be incompatible with the slot allocation system used in the rest of the world. Condor and others also said that it would lead to higher prices for the consumer. NetJets also said that the hybrid process would create an unnecessary administrative burden. The need to bid for new slots would also penalise start-up and financially weaker airlines.

1.179 **Airports and airport associations:** ACI, BAA and Fraport responded that a detailed impact assessment would be required. BAA said an auction might be most appropriate as a means for funding new capacity. Fraport emphasised that the airport operator should receive a share of auction revenue. Amsterdam Schiphol, Oslo and Zurich airports said that the proposed mechanism was complex and would not add value. Gatwick said that a market mechanism for primary allocation would be preferable to the administrative allocation, and the priority should be that the bid process is straightforward even if the auction design is complex.

1.180 **Slot coordinators:** Most slot coordinators did not express any opinion. However, Brussels Slot Coordination said the proposal would bring complexity and additional cost, and SCA said that it would bring slot coordination into the framework of traffic right negotiations.

1.181 **Member States:** The UK said that in principle an auction would be the most effective approach if the amount of new capacity to be allocated was significant enough for the benefits to exceed the costs of the auction mechanism. Spain said that it would mean a cost for airlines and that part of the revenue should go to the airport operator to fund capacity increases and environmental mitigation. Poland said that this might make the slot allocation system excessively complicated. Italy said that this might be difficult to apply and it might be better to retain the existing administrative allocation. France and Belgium said that they did not support auctions. Another Member State also did not support the proposal: it said more investigation would be needed but it would introduce a lot of complexity and administrative costs.

1.182 **Other stakeholders:** The European Express Association said that this proposal would increase complexity without delivering benefits. The law firm Norton Rose said that the disadvantages, in terms of practical difficulties, would not offset the benefits. The Aviation Environment Federation said that this would be preferable to the current

system but less effective than a single round auction. Most other stakeholders did not respond.

Question 22.2: Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.183 **Airlines and airline associations:** easyJet said that the proposal would increase the proportion of slots utilised but not impact the proportion that would be scheduled, and administrative costs would increase. It thought that whether the impact on competition was positive or negative would depend on the auction design. NetJets said that the second stage, administrative process could lead to an unfair outcome. Most other airlines did not respond to this question or referred to their previous responses.

1.184 **Airports and airport associations:** Airports and airport associations did not express any views on the impact the proposal might have.

1.185 **Slot coordinators:** Slot coordinators did not respond to this question.

1.186 **Member States:** Member States also did not express any views on the impact the proposal might have.

1.187 **Other stakeholders:** DCCA said that the system could have a positive impact on the competition as the allocation would take place on a more equal basis. Other stakeholders did not express any opinions.

Question 22.3: Where should the proceeds from such auctions be allocated? Please give reasons.

1.188 **Airlines and airline associations:** easyJet responded in detail, arguing that revenue must offset future airport charges. It said that if revenue was taken by government, it would in effect be a tax, as there was no evidence that airlines earned excess profits, and if the revenue was taken by airports, it would give them excess profits for the provision of no services, and this would not be consistent with the principles of the Directive on Airport Charges that charges be cost-reflective. Most other airlines did not respond or only reiterated their opposition to auctions. Most of those that did respond said that the fees should remain within the aviation system, for example to offset other charges airlines pay. NetJets, uniquely, said that the revenue should go to the jurisdiction that created the policy of auctions.

1.189 **Airports and airport associations:** Manchester and Oslo airports, and the German Airports Association, said that the proceeds should go to the airport operator as it related to airport infrastructure. ACI reiterated that a thorough impact assessment would be required. Other airport stakeholders did not respond to this question.

1.190 **Slot coordinators:** SCA and Brussels Slot Coordination said that the revenue should go to the coordinator. Other coordinators did not respond to this question.

1.191 **Member States:** Most States did not respond to this question. The UK said that there were arguments for airlines, airports and the State to receive the revenue but that it would not want government ownership ruled out. Spain noted that the airport operator believed it should receive the revenue, to fund capacity expansion.

1.192 **Other stakeholders:** Most other stakeholders did not respond. The Aviation Environment Federation and the Gatwick Airport Conservation Campaign said that revenue should be allocated to national government as capacity was a public good. An individual citizen said that the right to sell slots should be granted by the State to airport operators.

Question 22.4: If this was applied should it be EU-wide or left to the discretion of individual States?

1.193 **Airlines and airline associations:** Most airlines and airline associations did not express any views. Of those that did, several responded in equivalent terms that allowing States to develop their own rules would lead to unmanageable complexity. However, Cathay Pacific and another airline responded that it should be left to the discretion of individual States.

1.194 **Airports and airport associations:** Manchester and Oslo airports said that, if there were auctions, the system should be EU-wide. However, most did not express any opinion.

1.195 **Slot coordinators:** SCA said that this should be left to the State concerned, whereas Brussels Slot Allocation said that there should be an EU-wide system to avoid discrimination. Other coordinators did not respond.

1.196 **Member States:** The UK and another Member State said that auctions would only make sense in certain circumstances, and therefore should be an option, subject to an assessment to ensure that there were no competition issues created by varying regimes in different Member States. However Poland said any system should be EU-wide.

1.197 **Other stakeholders:** Norton Rose said that no change was necessary but any system should be EU-wide to ensure consistency in the application of the Regulation. The Danish Competition and Consumer Authority argued that any change should be EU-wide, making the market accessible and less complex. An individual citizen said any change should be EU-wide through a Regulation, not a Directive. However, the Aviation Environment Federation said that States should be given discretion to design auctions to meet specific national circumstances.

Option C4: One stage auction process for slot allocation

Question 23.1: What would be the advantages and disadvantages of amending the Regulation to replace the current system of administrative allocation of slots with an auction process for slots?

1.198 **Airlines and airline associations:** There was universal opposition to this from scheduled and charter airlines. AEA and a number of airlines said an auction would not be a real market mechanism as there would not be a functioning market: it would disadvantage the EU-based carriers, as they would be forced to be the highest bidder at their home base in order to grow; slots from the pool would end up with carriers

with the deepest pockets (some pointed to government-backed non-EU carriers); other parties, not linked at all to aviation, could enter the market for purely financial purposes; and the system would be excessively complex. IATA, Air France and others reiterated that a key advantage of the existing slot allocation system was the consistency with the process used in the rest of the world. Several airlines pointed to the risk that an airline would buy slots through an auction at one end of the route but then be unable to obtain them at the other, resulting in a wasted investment. A major network airline pointed out that previous studies had concluded that an auction mechanism could be infeasible due to the complexity. One pointed to potential costs for airlines of hundreds of millions of Euros to maintain their existing operations, which they would not be able to finance. However, NetJets said that a one stage auction could be the most efficient way of maximising the allocation and utilisation of slots.

1.199 **Airports and airport associations:** Most airports and airport associations referred to or repeated their answer to previous questions. Oslo Airport said that it opposed any auctioning of airport infrastructure as this would be unfair to existing carriers who had made investments in aircraft, and would not favour new operators as their resources are limited; it thought a consequence might be fewer operators and less competition.

1.200 **Slot coordinators:** Most coordinators did not respond or referred to their answer to previous questions. Brussels Slot Coordination said it was not in favour as it did not think that it would create a possibility for new operators or smaller competitors to obtain slots.

1.201 **Member States:** The UK reiterated that auctions could be the most efficient mechanism but only if the size of the amount of new capacity to be allocated made this worthwhile. Another Member State said that there appeared likely to be no benefits in comparison to the current system, but a lot of complexity and administrative cost. France and Belgium also reiterated their opposition to auctions. Italy said that an auction could be used to replace waiting lists but should be used only for slots voluntarily returned to the pool by airlines.

1.202 **Other stakeholders:** The Danish Competition and Consumer Association said that an auction would provide monetary incentive for airlines to give up slots, which would be an advantage it could lead to more competition. An individual citizen also supported auctions stating that it would lead to more efficiency, more competition among airlines, and an incentive to use underutilised aerodromes, with positive impact on economic development. The Airport Regions Conference said transparent and unbiased information on business transactions makes decisions easier and consumer better informed. The Airport Environment Federation said that slot auctioning would increase economic and environmental efficiency. Most other stakeholders either did not respond or referred to their answers to previous questions.

Question 23.2: Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.203 **Airlines and airline associations:** Most airlines and airline associations referred to their responses to previous questions or reiterated their opposition to auctions. ERA reiterated that an intercontinental flight operated by widebody aircraft could always outbid a regional flight with 100 seat aircraft. easyJet also said that distortions in the aviation market would impact the result of any auction: for example, operators of routes on which there are bilateral restrictions (and hence higher profits) would be able to outbid operators of other routes.

1.204 **Airports and airport associations:** The German Airports Association said that auctions could be most appropriate where there was substantial new capacity, such as a new runway, and for the major hubs, where it should be ensured that sufficient capacity is available for long haul flights and not allocated to other flights that could use alternative airports. Manchester said that at airports such as its own there would be no beneficial effect of such a change, which would require considerable administrative effort to implement. Other airports did not express a view on the impact or referred to their response to previous questions.

1.205 **Slot coordinators:** Slot coordinators did not respond to this question.

1.206 **Member States:** Member States did not respond or referred to their responses to previous questions.

1.207 **Other stakeholders:** DCCA said that from a competitive point of view, an auctioning process on an objective and fair basis would secure the most efficient slot allocation, benefiting competition. However, it also noted that new entrants typically do not have the same financial resources as established carriers which could limit their participation in an auction. The Gatwick Area Conservation Campaign reiterated that it thought auctions were the most efficient means of allocating slots and ensuring competition.

Option C5: Withdrawal of slots

Question 24.1: What would be the advantages and disadvantages of amending the Regulation to introduce withdrawal of slots, in parallel with the introduction of auctions, at all coordinated airports? If this was introduced, what proportion of slots should be withdrawn each year?

1.208 **Airlines and airline associations:** Virtually all airlines and airline associations expressed strong opposition to the withdrawal of slots, as might be expected. A number of reasons were raised. ELFAA, FNAM, Cathay Pacific, Ryanair, AEA, Thomson, ERA, Air France, British Airways and others said that airlines needed certainty about slot allocations to be able to make investments, particularly long term investments in fleet. Condor also pointed to the instability that this would create in the schedule: every departure or arrival slot is dependent on other slots, for example at the destination airport or at different times of day. It also noted that many charter flights (for example, those connecting with cruise ships) were planned more than a year in advance, which would not be possible if there was withdrawal of slots. Cathay Pacific said that fares would have to increase as a result. ERA argued that it could lead to schedule fragmentation (for example if a slot was withdrawn on one day from a daily service), and British Airways and others pointed out that it would cause instability as slots could be withdrawn at one of a route but not the other. Some network carriers

pointed to the risk of retaliation against them at non-EU airports. easyJet said that if there was forced withdrawal of slots it would have to be set at a low value (5%) to avoid creating too much instability in the system.

1.209 **Airports and airport associations:** Most airports and airport associations that responded also opposed this. Amsterdam Schiphol said that consistency of schedules was essential for both airports and airlines. ACI, Fraport and BAA said that grandfather rights were necessary to safeguard medium and long term infrastructure investments. Manchester Airport Group said it would put EU airlines at a disadvantage against other airlines, and possibly lead to retaliation from third countries. Oslo Airport and another major airport group also opposed this. However, Gatwick said that the greater the proportion of slots allocated, the more efficient the market.

1.210 **Slot coordinators:** Airport Coordination Denmark said that withdrawal would be life threatening to the industry because investments in aircraft were based on historic rights to slots. Brussels Slot Coordination said that it would disadvantage small operators and also disadvantage EU carriers in competition with non-EU carriers, who do not have withdrawal of slots at their airports. However, SCA said that airlines that abused slots should be penalised by withdrawal.

1.211 **Member States:** The UK said that time limiting slots could affect airlines' route and network development decisions, and deter airlines from investing in new, more efficient fleets. Sweden said that it was reluctant to support withdrawal as it reduced the incentive for airlines to develop the market; although it might make it easier for market entry, entrants might not be financially strong enough to buy slots in competition with established airlines. Spain, France, Belgium and another large Member State also opposed withdrawal of slots, citing the destabilising impact that this could have and the complexity and inconsistency with the established scheduling system. However, Poland thought this could be considered for the most congested airports and for carriers that had the largest market share.

1.212 **Other stakeholders:** The European Express Association said that withdrawal would impact investment and risk retaliation at non-EU airports. However, DCCA said that withdrawal should be introduced to improve competition and suggested 20% of slots per year could be withdrawn. An individual citizen said that withdrawal of slots could initially be 10% per year for a transition period and then be replaced with annual auctions. The Aviation Environment Federation said that withdrawal could be 25% per year to realise the benefits of auctions faster.

Question 24.2: Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.213 **Airlines and airline associations:** Most airlines either did not respond or referred to their responses to the previous question. AEA reiterated that there was a risk of retaliation at non-EU airports against EU airlines. ERA said that essential regional services would be lost as a result of slot withdrawal. Air Berlin said that additional capacity should be provided at congested airports to accommodate new entrants.

easyJet said that it could create instability with the schedules and undermine competition and consumer benefits, if it led to excessive 'churn', although it could also increase efficiency.

1.214 **Airports and airport associations:** Most airports and airport associations did not respond to this question. The German Airport Association said that grandfather rights were essential to allow airlines to develop their schedules and safeguard medium/long term investments. Manchester said that at its airports, there would be much administrative work for no benefit.

1.215 **Slot coordinators:** Slot coordinators either did not respond or referred to their response to the previous question.

1.216 **Member States:** States either did not respond or referred to their response to the previous question.

1.217 **Other stakeholders:** Most other stakeholders also did not respond. However, the Danish Competition and Consumer Association said that it would enhance competition.

Question 24.3: If applied, should this policy be restricted to the most congested airports where virtually all slots are allocated through grandfather rights and what difference if any would this make to the impacts?

1.218 **Airlines and airline associations:** Most airlines and airline associations that answered this question reiterated their opposition in principle, but said that if it did apply it should be at all airports, so as not to discriminate against carriers based at the most congested airports.

1.219 **Airports and airport associations:** Manchester said that the policy should only be applied at congested airports, as to introduce such a policy at non congested airports would be unnecessary, bureaucratic and result in antagonism from airlines. Others did not reply.

1.220 **Slot coordinators:** Slot coordinators did not respond to this question.

1.221 **Member States:** Member States generally did not respond to this question. Spain said that historic rights should be retained at all airports, including the most congested.

1.222 **Other stakeholders:** DCCA said that the policy should be limited to the most congested airports to minimise administrative costs. The Aviation Environment Federation said that at non-congested airports the impact of an auction would be negligible as the price would be so low. An individual citizen said it should be applied at all airports.

Option C6: Allow more flexibility for local rules

Question 25: What would be the advantages and disadvantages of amending the Regulation to allow more local flexibility to develop policies for slot allocation? The precise criteria would be decided by the coordination committees at individual airports, subject to some requirements that criteria could not be unfairly discriminatory between carriers. What, if any, administrative costs

would this generate? Could environmental and regional accessibility objectives be better ensured by local rules and if so, how? If local rules were allowed to be more flexible, how could the uniform application of the principles of the Slot Regulation be ensured? How could competition between airlines be ensured?

1.223 **Airline and airline associations:** All airlines and airline associations argued that slots should be allocated in a consistent way in Europe and that the approach should also be compatible with the IATA World Scheduling Guidelines. However, AEA, IATA and a number of airlines also acknowledged that, in limited cases, local rules can bring a certain amount of flexibility provided that they do not allow for discrimination or protectionism, have clear criteria, and are transparent and published. IACA, ELFAA and a number of airlines expressed clear opposition to allowing greater flexibility for local rules, advocating greater oversight of existing rules by the Commission. On the practical implementation of local measures, British Airways stated that it would rather see environmental parameters as part of the capacity declaration rather than introducing a new priority criteria for slot allocation. Another European airline hoped to see some sort of publicly available database or website listing all local rules. All airlines and associations believed that services to regional communities were more appropriately dealt with under the Public Service Obligation of the Regulation.

1.224 **Airports and airport associations:** All of the airports and airport associations that responded to the question, including ACI, Fraport and BAA, favoured allowing more flexibility for local rules, as these could help reflect the individual nature of the traffic at each airport. However they also wanted to ensure that the allocation mechanism would remain fair, transparent and not discriminatory. ACI expressed concern that a proliferation of local rules could lead to inefficient capacity utilisation, and political interference to favour national or regional airlines.

1.225 **Slot coordinators:** All slot coordinators argued that there must be room for local management in the Regulation provided that transparency is ensured, that local rules do not allow discriminations on airlines and nationality and follow IATA World Scheduling Guidelines and general EU competition law. The number of local rules should also be limited to avoid proliferation.

1.226 **Member States:** Member States expressed a range of opinions, but the majority (the UK, Spain, Finland, Sweden, Finland and Italy) argued that they would be prepared to consider greater local flexibility provided that rules were non-discriminatory. The UK and France also perceived local rules as a convenient tool to address environmental issues at specific airports. The UK said that the proposal to secure regional accessibility was not clear, as there are already provisions in the Regulation for slots to be reserved for Public Service Obligation routes; the UK sees no reason to extend these provisions. It argued that secondary trading between airlines or allowing regional bodies to purchase slots on the secondary market could provide a means to preserve regional accessibility.

1.227 **Other:** Both regional government respondents stressed the importance of local rules for slot distribution. Concern was expressed that peripheral regions with low population density could face a competitive disadvantage when airlines consider what flights to allocate slots to, since the most profitable routes would be allocated the peak time slots, with a possible loss in connectivity to the major European cities. They

mentioned possible policy options such as Public Service Obligations for peripheral regions at major airports, allowing regions or airports to buy slots in the secondary trading system, or reserving slots in a pool for designated regions and cities.

1.228 Almost all other stakeholders expressed similar opinions, arguing that local rules may add complexity, reduce transparency, unnecessarily complicate the entry of newcomers and jeopardise consistent application of the Regulation. However, most stakeholders recognise that environmental protection is based on local and State requirements and that therefore local rules could be appropriate provided they comply with the Regulation.

Option C7: New entrant rule

C7.1: Amend definition of new entrant to include carriers with a higher number of slots

Question 26.1 Has the new entrant rule been effective, in terms of promotion of competition on intra-EU routes, the development on new routes and obtaining slots at congested EU airports for new entrants?

1.229 **Airline and airline associations:** The most common response to this question was a cautious one, urging a detailed review of the new entrant rule before drawing any conclusions regarding its effectiveness. Several carriers did highlight its role in allowing airlines to access slots at congested airports, although most also highlighted issues and deficiencies. Four respondents suggested that the effect of the new entrant rule has been limited at congested airports simply because capacity rarely becomes available. British Airways added that often new entrants only operate for a couple of seasons before ceasing operations. Two stakeholders emphasised that its effects are limited as carriers are unable to develop significant slot portfolios, which is important for competition on intra-EU routes. Several carriers were more critical of the new entrant rule; two highlighting the recent growth in the low cost carriers which occurred largely without the assistance of the new entrant rule. The same two carriers also believed that new entrant slots were inefficiently used, often featuring high mortality rates and small aircraft. The other dissatisfied carrier was NetJets, which did not favour the rule because it does not have the ability to maintain a slot portfolio and felt that it only served to restrict the number of slots available to it.

1.230 **Airports and airport associations:** All stakeholders which submitted a relevant response to this question agreed that the new entrant rule has had little or no effect, and that many new carriers have entered the market by other means. Schiphol added that the rule should be scrapped altogether; others took a more measured view and suggested amendments. One airport took a different view, and suggested that it has been difficult to enforce effectively, although added the view held by many airlines, that the number of slots which could be gained was not economically competitive.

1.231 **Slot coordinators:** EUACA stated quite simply that the new entrant rule had generally been ineffective. This was supported by Airport Coordination Norway (which highlighted the deterrent posed by the conditions attached to new entrant slots), SCA and ACD (which suggested that the rule is 'nice but not necessary'). Brussels Slot Coordination highlighted some success at Brussels, but only to a certain degree. COHOR said that it was necessary to define what the appropriate market was if measures were to be taken to encourage competition, and the Regulation was not clear in this regard. It noted that at Orly, the new entrant rule had been used by airlines

to obtain slots but that they generally did not use these to compete directly with the dominant carrier at the airport.

1.232 **Member States:** Most states believed that the rule had at best only been effective to a certain extent, for various reasons. The UK's response suggested that the new entrant rule had only been partially successful, referring to the 2006 Mott MacDonald study which found that it promotes smaller, less effective competitors to incumbent carriers. However, it also indicated that the rule may have been more effective at the route level, particularly for long haul, low frequency services. The justification given by the Swedish Transport Agency was that the new entrant definition was too restrictive; ENAC suggested that the rule had not produced the expected results because few carriers had applied, and the Polish Civil Aviation Office suggested that the scope of the rule was limited because of the rarity of capacity increases at congested airports. Although it did not provide an opinion on the rule, CAA Finland indicated that peak slots are rarely freed for new entrants. In contrast with the other respondents, DGAC France believed that the rule had strengthened competition on intra-community services, supported new routes and allowed new entrants access to congested airports; and attributed the growth in low cost carriers at Orly airport to the new entrant rule. However, it reflects the views of the other states in adding that the effects of the rule may be slow to emerge given the small number of slots becoming available. Finally, the Belgian CAA indicated that it had no information that the rule hadn't been effective.

1.233 **Other:** Only three stakeholders submitted responses to this question. The French competition authority believed that the rule had only been partially effective, highlighting the fragmented nature of the competition it generates. This view was reflected in the response prepared by Norton Rose, which added that the lack of airports capacity had also been a limiting factor. Danish Aviation believed that the rule had been effective to the best of its knowledge.

Question 26.2 What would be the advantages and disadvantages of amending the Regulation to increase the number of slots carriers can hold whilst being defined as a new entrant? If it was, what new definition should be used?

1.234 **Airline and airline associations:** As stated above, most carriers and their associations have recommended studies into the effectiveness of the current rule and consequently, many did not comment on this proposal. Where advantages were cited, these related to the potential competitive benefits which would be generated. Four network carriers expressed concern that increasing the threshold would leave the home base carrier as virtually the only incumbent, therefore restricting its growth. NetJets proposed widening the new entrant definition by withdrawing the maximum number of slots per day required in the definition. Several route-based suggestions were proposed: Condor suggested that adding some type of consideration of the route operated might be worthwhile, and two of the four network carriers mentioned above suggested that it might be useful to consider an alternate privilege for carriers requesting slots for a new destination, as this would widen passengers' travel options. This view was reflected by another EU carrier, which suggested giving priority to carriers introducing services on routes served by 1-2 operators. One non-EU carrier believed that this proposal would allow older operators to maintain their new entrant status, and would not change the

number of available slots allocated to genuine new entrants.

1.235 **Airports and airport associations:** ACI Europe, BAA, Manchester Airport and another airport operator all supported the proposal, all except the latter operator stating that this would enable carriers with a small presence to develop greater critical mass to more effectively compete with incumbents (although Manchester added that the proposal set out in C7.2 would be more effective than defining the actual number of slots which a carrier could hold). Despite being supportive of revisiting the new entrant rule, Gatwick Airport suggested alternative approaches, namely policing the allocation of slots under competition law provisions or imposing a restriction on carriers seeking to obtain or strengthen dominant positions at airports. It added that it would welcome being given the power of veto over new entrants, for example through visibility of their business plan. The German Airports Association suggested linking new entrant status to a minimum aircraft size in order to encourage more efficient use of these slots. As stated above, Schiphol believed that the rule should be abolished.

1.236 **Slot coordinators:** COHOR stressed that defining new entrants at the airport level was less effective, as it was competition at the route level which was relevant and delivered the most benefits for consumers; it also argued that the period for which new entrants are not permitted to change route or transfer slots (2 years) is short. Similarly, Airport Coordination Norway suggested that an amendment to consider city pair and frequency could increase competition. EUACA suggested that increasing the fewer than five slots threshold would allow a broader range of airlines to qualify for new entrant status, and reduce the issue of fragmentation of the pool (allocation of small numbers of slots to a large number of different carriers, who may not have sufficient presence at the airport to be able to provide effective competition).

1.237 **Member States:** Three States expressed some degree of support for a review of the new entrant rule, predicted by one Member State to strengthen the competitiveness of new entrants and consequently the attractiveness of airports. The UK CAA / DfT proposed several options: increasing the maximum number of slots which a carrier can hold whilst still being defined as a new entrant at the airport level, increasing the maximum proportion of slots at the airport level, or reducing the percentage of slots over which new entrants would have priority. DGAC Spain proposed a similar amendment, suggesting increasing or removing the fewer than 5 slots threshold, or allowing it to vary by route to more closely reflect the frequencies required to be competitive. DGAC France urged more caution, suggesting that it is not proven that the maximum number of slots is too low, and therefore any increase should be limited; and later adds that it has no evidence of any requests under Article 2b(iii) and would have no objection to it being deleted. It also states that the status should not be granted to carriers belonging to larger groups which exceed the thresholds. In its response France also distinguishes between the twin objectives of promoting passenger variety (through new services and/or competition on existing routes) or encouraging efficient slot usage, a distinction repeated by the Polish Civil Aviation Office, which adds that the two aims would result in different solutions and therefore the desired objective of reform should be considered before proposing changes. Finally, ENAC also discusses raising the new entrant thresholds, but suggests that this would not help to resolve the issue of lack of carrier participation.

1.238 **Other:** DCCA and the French competition authority were the only respondents expressing support for the proposal, the latter suggesting increasing the new entrant

threshold from 5 to 10%, to allow new carriers to be better able to compete with incumbents. Norton Rose cited potential benefits for competition, but also suggested that an increase could be counter-productive if creating or reinforcing an oligopolistic market. It concluded that the advantages were not sufficient to outweigh the disadvantages and that the rule should therefore not be amended, at least not without a detailed study. Danish Aviation believed that the current 50/50 criterion was fair, and the final respondent asserted that it should be the market and not the new entrant rule which should determine the pattern of services. The Airport Regions Conference suggested that it should be possible for the current 50% to be modified with local rules to increase competition.

Question 26.3 Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.239 **Airline and airline associations:** Few stakeholders provided a response to this question. As indicated in 26.2, the most frequently cited effects were on competition. Only NetJets and one non-EU carrier specified impacts across the areas set out in the question, the latter predicting no change to any of (a) to (e), as it did not expect the change to initiate any new competition. NetJets predicted impacts on (a) and (b) in terms of the increase in the number of slots used by non-dominant carriers, and beneficial impacts on the mix of services for the same reason. Administrative costs were expected to be nil, and competition was predicted to be increased.

1.240 **Airports and airport associations:** The Manchester Airports Group predicted no impact at present at any of its airports.

1.241 **Slot coordinators:** The slot coordinators did not respond to this question

1.242 **Member States:** Only DGAC France provided further comment, suggesting that an amendment would enhance the attractiveness of new entrant status, increase competition and probably increase the ratio of scheduled vs. charter services (but that this change would be insignificant if amendments are minor). It did not identify any impact on slot utilisation, or any administrative costs.

1.243 **Other:** DCCA predicted improvements in the level of competition at congested airports.

C7.2: Replace definition of new entrant with priority for competing carriers

Question 27.1 What would be the advantages and disadvantages of amending the Regulation to replace the current new entrant rule with a rule giving priority to carriers other than the dominant carrier and its partner or alliance carriers?

1.244 **Airline and airline associations:** Most respondents (comprising AEA and 14 network airlines) were not in favour of the proposal, stressing that the Regulation is not designed to promote competition and that giving priority to new entrants is unfair and would disadvantage the home carrier and restrict its network development and growth. British Airways went on to emphasise the efficiency of network operations, which

often contrasts with the less efficient use of slots by new entrant carriers; and that an additional tool to promote competition seems unnecessary given the already intense competition between carriers. IACA and two carriers simply believed the amendment to be unnecessary, either because sufficient competition exists already, or because coordinators would naturally deal with the issue as it arises in the normal allocation process. Four carriers were more supportive of the proposal, at least with some amendments. easyJet suggested adding a threshold (for example 50%) above which the allocation should weight against the largest carrier or alliance, although this should not be adopted without detailed analysis; and Condor believed that the focus should be on providing new routes rather than continually increasing competition on existing routes, as some have finite demand and competition could ultimately be disastrous. Others reiterated the need to conduct a detailed analysis of the existing rule before considering amendments.

1.245 **Airports and airport associations:** Only Manchester Airport was broadly in favour of the proposal, adding that this should include the freedom for priority to be given to applications from incumbents who are not the dominant carrier on any given route or at any given airport. Two airport authorities anticipated benefits but did not provide detailed responses. ACI, BAA and the German Airports Association reiterated the limited success of the existing new entrant rule and consequently did not see the benefits in extending it further. Instead, they proposed other methods to improve the airport offer, for example supporting flights to key new destinations, frequency increases on under-served routes or considering aircraft size. They also highlighted the possibility of substituting the current EU-wide new entrant rule with local rules better tailored to local requirements. Fraport proposed a similar approach, namely replacing the existing rule with one which prioritises the efficient use of slots, with no consideration of the number of slots held by an airline or alliance. Schiphol suggested that giving priority to non-dominant carriers would not necessarily be beneficial, as dominance is not necessarily negative – rather it is the abuse of dominance which distorts competition.

1.246 **Slot coordinators:** Brussels Slot Coordination and Airport Coordination Norway anticipated potential increases in competition; the former adding that, at some airports, the dominant carrier has eliminated any kind of competition on its most important markets. EUACA was uncertain whether this approach would be in line with competition rules; and ACD and SCA were concerned about the complexity and associated administrative burden entailed in this process (although SCA went on to state that the results would be 'interesting' if combined with monetary mechanisms). COHOR cited practical issues in determining eligibility, and questioned whether the proposal was in line with the general need to encourage more efficient use of airport slots in a climate of increasing congestion.

1.247 **Member States:** Most respondents were not in favour of this proposal, most giving more weight to the associated practical issues rather than the benefits. DGAC Spain and another Member State emphasised the difficulty in determining which carrier was dominant, (the other Member State adding that any measure based on market share would vary between airports). The potential negative effects on alliance members and distortionary effects on competition were highlighted by DGAC France, the Swedish Transport Agency and another Member State. DGAC France also stated that any deletion of the new entrant definition would also risk concentration among the dominant carriers, and added that the purpose of the Regulation is not to create

difficulties for major European operators.

1.248 The UK urged further research into the most effective approach, and highlighted the need to consider the effects beyond the level of the individual airport (as a carrier which may be dominant at one airport may be constrained by another incumbent elsewhere), and that defining 'partner' or 'alliance' was complex due to the range of commercial agreements in the market. The UK would have no difficulty with an arrangement whereby the percentage of slots over which new entrants have priority was reduced from 50% to say 20%, and giving priority over the remaining 30% to airlines other than the dominant carrier and its partners. Widening the definition in this way was believed to allow the development of more effective challengers, whilst still giving the opportunity for true new entrants to gain slots. Belgium and Italy were the more supportive States: the Belgian CAA stated simply that the measure could increase competition, and ENAC that the granting of 'new entrant' status to carriers with no link to the airport's main users, would definitely improve competition. Finally, the remaining Member State to provide a response stated only that the proposal should be investigated further.

1.249 **Other:** DCCA was most supportive, although emphasised the importance of combining this with some form of easier access for new entrants. EEA supported the view held by IATA and several carriers which was that no changes should be made until a study into the existing rule is undertaken. However, it did propose an alternative to the new entrant rule as being the setting of a cap on the percentage of slots held by the dominant carrier and its partners or other alliance members. The French competition authority also highlighted the importance of considering alliances as well as individual carriers. Norton Rose was concerned that this amendment could risk creating or reinforcing oligopoly at some airports, while an individual respondent asserted that the mechanism should not be used to manipulate the structure of carriers at an airport. Finally, a citizen stated in its response that auctioning slots would remove the need to consider the issue of new entrants.

Question 27.2 Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.250 **Airline and airline associations:** Reflecting the responses to 27.1, the most frequently anticipated impacts included the potential adverse effects on dominant carriers and the allocation of slots could be inefficient and sub-optimal. Conversely, another commonly cited impact was the potential increase in competition anticipated (although in some cases this related to the airlines' own proposals rather than the option suggested here). In common with similar previous questions, few respondents attempted to forecast impacts in all areas. One carrier forecast no change to (a), (b) or (d), changes in the mix of traffic arising from new destinations, and more competition. NetJets believed that the distribution of slots to non-dominant carriers would improve scheduling and utilisation, and would have a positive impact on the mix of traffic. It suggested that no administrative costs would be incurred, and that fair competition would be encouraged, reducing the risk of abuse by dominant carriers.

1.251 **Airports and airport associations:** Manchester Airports Group anticipated no effect

at any of its airports, whereas Oslo Airport forecast possible increases in competition 'without too many implications'.

1.252 **Slot coordinators:** The slot coordinators did not respond to this question

1.253 **Member States:** Only DGAC France provided information additional to that provided in 27.1, and predicted that the proposal could result in less diverse traffic focusing on the most profitable destinations. It did not identify any administrative costs or impacts on slot utilisation.

1.254 **Other:** Only DCCA prepared a response, anticipating that the proposal would to a certain extent equalise competition between the dominant carrier and other competitors.

Option C8: Measures to improve slot utilisation

C8.1: Amend 80-20 rule

Question 28.1 How well has the current 80/20 rule ensured efficient use of capacity, and why? What is the current level of utilisation of slots? To what extent do you think that the 80/20 rule has led to perverse effects (e.g. babysitting, ghost flights)?

1.255 **Airline and airline associations:** Almost all respondents believed that the 80/20 rule had been effective, and allows sufficient flexibility to respond to unforeseen circumstances and to reduce the needless operation of unprofitable services. Only one (non-EU) carrier provided an indication of its level of slot utilisation, which was around 99%. Several carriers stated that slot utilisation at congested airports remains 'at a very high level'; with British Airlines suggesting that this figure was well over 95%. Few respondents commented on perverse effects, although several stated explicitly that they did not have any concrete data or statistics on babysitting or ghost flights. One of the exceptions was easyJet, which refuted the suggestion that babysitting was a perverse effect, and suggested that this was an economic transaction similar to slot trading. One EU carrier suggested that any evidence for ghost flights was anecdotal, and that during the recent downturn it was able to comply with the rule with only a handful of flights operating at load factors of less than 25%. Finally, a perverse effect cited by NetJets was that the rule encouraged carriers to hold more slots than they require, and that this was not done in a very transparent way.

1.256 **Airports and airport associations:** Although these stakeholders were generally satisfied with the 80-20 rule there was a universal appetite for further revision, as discussed in 28.2 below. Manchester Airport provided a detailed response which highlighted the procedures set out in EUACA's *Recommended Practices*, which allow carriers to cancel less than five weeks prior to the Slot Return Deadline without affecting their historic rights, meaning that airlines are ultimately only required to use 64% of the original series.

1.257 **Slot coordinators:** Where stated, all coordinators seemed satisfied with the 80-20 rule, although there was again an appetite for amendments. EUACA commented that the current level of utilisation is generally far higher than 80%.

1.258 **Member States:** Four States (Belgium, France, Spain and another Member State)

believed that the current 80/20 rule had been effective in ensuring efficient use of capacity, and France added that utilisation rates were above 90% at its airports. ENAC suggested that the rule 'could be better', and went on to propose an increase in the threshold. The UK was the only respondent to comment on perverse effects. It stated that, although it is aware that these can occasionally arise, any amendment to the Regulation should be based on evidence.

1.259 **Other:** The 'other' stakeholders were more likely to highlight the rule's disbenefits and perverse effects. The French competition authority believed that babysitting represented a way in which the rule had sometimes been used to prevent the entry of new carriers. Likewise, DCCA had the impression that the rule had led to babysitting, ghost flights and 'similar behaviour'; and the Gatwick Area Conservation Campaign believed that the rule encouraged empty flights and unnecessary environmental damage. Norton Rose was one of the exceptions, stating that the rule seemed sufficient for ensuring efficient long-term planning and scheduling and should not be changed. Danish Aviation stated simply that the rule had been working well to the best of its knowledge.

Question 28.2 What would be the advantages and disadvantages of amending the Regulation to increase the utilisation of slots required to obtain grandfather rights from 80%? What minimum level of utilisation should be required?

1.260 **Airline and airline associations:** As stated in 28.1 most respondents believed that the current parameters were sufficient and effective, and many of these carriers believed that any perceived deficiencies could be addressed by better application and enforcement of the existing rule. For example, a number of carriers expressed concern that increasing the threshold would remove the contingency required to respond to short-term reductions in demand or other unforeseen circumstances – British Airways suggested that increasing the utilisation ratio to 90 or 95% could result in carriers losing their slots from only two weather- or technical-related cancellations. On a similar note, ERA stated opposition to any increases in the threshold, unless accompanied by a widening of the circumstances under which cancellation are allowed. Cathay Pacific highlighted the additional administrative burden associated with having to follow up on failures to meet the more stringent requirements, and several carriers predicted that, rather than encouraging the return of a greater number of slots to the pool, increasing the threshold would force airlines to operate loss-making, empty flights for the sole purpose of maintaining their slots. Other disadvantages cited included the introduction of inconsistency with the standard procedures in place elsewhere, and the impracticability of introducing a higher threshold whilst still maintaining a 5-week minimum series length (as 10% would equal 0.5 weeks). However, some carriers were in favour: one non-EU carrier suggested that even an increase from 80 to 85% would make it more difficult for large airlines and alliances to hold unused historics and would therefore increase the return of slots to the pool for the use of new entrants. easyJet expressed some support for an amendment to 90% (it stated that it would not support an increase beyond 90%), although it added that not matching increases in the usage requirement with increases in the minimum series length would lead to instability, as the volatility in the industry would lead to more slots being withdrawn for reasons outside airlines' control. NetJets supported an increase to 95%, which it believed to be attainable and advantageous.

British Airways suggested that inefficient use of slots could be better tackled by the Slot Performance Committees which have been established at major airports.

1.261 **Airports and airport associations:** As indicated in 28.1, many airports and association were in favour of an increase in the usage threshold beyond the current 80%. One airport operator suggested an increase to 90%, and Gatwick and Zurich airports proposed an increase to either 90 or 95%. Gatwick Airport also highlighted a need for more effective enforcement, and suggested that this should include ensuring that slots cannot be transferred between carriers (i.e. to eliminate babysitting). Although they did not propose new thresholds, ACI Europe, Oslo Airport and another airport operator believed that an increase would be desirable in encouraging greater efficiency, higher return of slots to the pool and allowing airports to make better use of their infrastructure. BAA believed that the rule allowed carriers a large margin for non-use without being subject to sanctions, and suggested that the rule should apply to all operators, and should mean that the allocated slot has to be flown 80% of the time. Fraport was more cautious, arguing that there is no evidence to suggest that the current 80% threshold led to the best use of scarce capacity, and that a study should be undertaken to establish the most effective ratio. Only Manchester and the German Airports Association were clearly opposed to the proposal; the latter preferring more stringent enforcement of the existing rules (potentially in tandem with a slot reservation fee), and Manchester suggesting that more effective solutions were set out in its responses to 28.1 and 29.1.

1.262 **Slot coordinators:** The coordinators expressed diverging views. Airport Coordination Norway and Brussels Slot Coordination were in favour of increases (the latter proposed 90%, but added that the threshold should be the same all over the world). ACD suggested that the current 80% was fair to both airports and operators, COHOR suggested that an increase would penalise new entrants which can find it difficult to reach 80%, and SCA suggested that extending the minimum series length would be more effective. EUACA did not express a clear view, and stated only that any change would not have a great impact given that actual utilisation rates are generally higher. Again, the need to ensure adherence with global practice was emphasised.

1.263 **Member States:** Italy was the most supportive State, proposing increasing the threshold to 90%, expecting that this would improve the utilisation of airport capacity and could increase the number of slots in the pool, therefore widening access to more carriers. Spain believed that this would increase the slot pool, but would encourage bad practices by carriers to maintain historics. The UK stated that it would support a revision only if there was firm evidence from relevant stakeholders that this would be beneficial. It was suggested by the UK and Belgium (which would not support a 'very small buffer') that rather than increasing the number of slots in the pool, any amendment could instead encourage the operation of unprofitable flights, placing further pressure on congested airports and potentially damaging the environment. The UK also indicated that, if the rules were tightened, it would not expect this to result in more temporary suspensions; and that these could in any case only be justified if applied on the basis of a full impact assessment. France was not opposed, but suggested that the high utilisation rates at its airports do not suggest that a revision to the Regulation (or at least one which increases the threshold above 90%) is required in this regard, although it did request the incorporation of a mechanism by which the rule can be suspended for exceptional circumstances without having to go through the Council. France reflected the views of the UK in adding that any modifications should

be justified by a study and would probably relate to a change in the minimum series length. The main benefit was expected to be better use of slots, but it a potential undesirable effect was believed to be a proliferation of anti-economic 'preservation schemes'. One Member State did not support any change to the rule, and Belgium and another State appeared largely opposed, the latter believing that the focus should be on increasing capacity and not imposing restrictions and that European carriers would be unfairly penalised if the changes were not reflected in worldwide IATA guidance.

1.264 **Other:** There was also a divergence of views among this group of stakeholders. DCCA, the French competition authority and an individual citizen were in favour of increases, the former two respondents suggesting 90% and adding that this would improve utilisation and increase the number of slots available for use by newcomers. However, it added that it should be ensured that sufficient flexibility remains to respond to seasonal fluctuations in demand. EEA was opposed on the grounds that an increase in the utilisation requirement would increase the risk of ghost flights and would threaten the flexibility of the express industry to quickly react to local developments, and Norton Rose emphasised the need to take into account the global nature of the current 80% (and added that a global change was neither feasible nor desirable), and highlighted the mathematical link between the usage threshold and the minimum series length; suggesting that these disadvantages were not sufficient to outweigh the potential advantages of more efficient use of airport infrastructure and more returns to the pool. The Gatwick Area Conservation Campaign believed that the current 80% already led to unnecessary environmental damage, which would be worsened by an increase. The Airport Regions Conference supported the amendment of the 80/20 rule, and suggested that abuses may be tackled if the threshold were raised. However, it also emphasised the need to recognise the varying circumstances of different types of airport.

Question 28.3 Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.265 **Airline and airline associations:** The impacts perceived by most carriers were negative and are discussed in 28.2. Only (2) carriers predicted impacts in the areas set out here. One (a non-EU carrier) predicted that (a) services would be scheduled for all slots held, (b) utilisation would increase, (c) that the freed slots would allow other operators / routes to enter the market, (d) no impact and (e) an increase in competition. NetJets predicted increases in (a), (b) and (c), the latter because it was believed that the increased threshold would open the slots to a wider group of carriers and thus lead to a greater mix of traffic. Administrative costs were expected to be nil, and it was anticipated that the enabling of more carriers to use the slots would improve competition. ERA suggested that if any increase in the threshold was accompanied by an amendment in the allowable circumstances the impact on all areas would be nonexistent, and Air France believed that the impact would be minimal because utilisation is already very high. One network carrier suggested that the proposal could further disadvantage EU carriers in their home base, as they would only be able to reacquire 50% of any slots lost, and five other network carriers considered the proposal as an undermining of the grandfather rights principle and an attempt to

withdraw slots from carriers for redistribution.

1.266 **Airports and airport associations:** Manchester Airport anticipated a reduction in babysitting and ghost flights, but added that babysitting can be advantageous in that it has resulted in regional airports gaining off-season passenger services to Heathrow which might not otherwise have been provided.

1.267 **Slot coordinators:** The slot coordinators did not respond to this question

1.268 **Member States:** The Member States did not provide relevant responses to this question

1.269 **Other:** DCCA predicted easier access for non-incumbent carriers with consequent benefits for competition.

C8.2: Increase minimum length of a series of slots

Question 29.1 What would be the advantages and disadvantages of amending the Regulation to increase the minimum length of a series of slots beyond the current level (5 slots)? What should the minimum be, and should this be determined EU-wide or on an airport-by-airport basis?

1.270 **Airline and airline associations:** A number of stakeholders repeated that no changes should be made without having first conducted detailed analysis at an airport-by-airport level. British Airways added that the minimum series length should be consistent with the use or lose it percentage. Half of respondents were entirely opposed, including Ryanair because it had not found securing of slots to be a problem. IACA and an EU carrier provided a lengthy response explaining the rationale for the current five weeks in detail, including need to cater for various seasonal trends, including the 10-week difference in length between the summer and winter seasons, which means that 5-week series can be useful when coordinating between northern and southern hemispheres (thus short series may be at the beginning or end of the season rather than the beginning), and allows the flexibility to schedule around holiday periods and natural breaks. Other potential disadvantages were similar to those predicted from increasing the minimum usage threshold, namely that airlines could be forced to operate services which are not commercially viable. Three respondents supported the extension of the minimum series length beyond the existing five weeks, although ELFAA believed that, whilst desirable, this change does not justify revising the Regulation. This change was anticipated to reduce this incidence of fragmentation with its accompanying issues, including the cost and complexity of overseeing slot holdings and the limitations posed on use of slots for shoulder peak services. Of the three carriers supporting an extension, only easyJet and Thai Airways proposed a new minimum, stating that this should be 10 weeks. The only respondent to suggest a reduction was NetJets, which proposed a minimum of 4 weeks.

1.271 **Airports and airport associations:** Most airports supported an extension of the minimum series length. Schiphol gave the fullest description of the advantages, expecting a more efficient use of capacity at capacity constrained airports where most carriers conduct year-round operations. Oslo proposed 10 weeks (to be implemented by local rules), Gatwick suggested 15 weeks (to be implemented either on an EU-wide basis or through local rules); and ACI Europe, BAA and Manchester suggested an extension to 15 consecutive weeks in summer and 10 weeks in winter. Manchester

Airport also advocated extending the rule to cover the number of weeks in a season in which a slot must be operated, i.e. closing the 'loophole' which allows carriers to cancel up to five weeks before the Slot Return Deadline. Fraport and the German Airports Association indicated that the length of the series had not caused problems there, and Fraport added that it expected the issue to be more significant at holiday airports. One other airport operator expressed reservations, stating that this would create an additional barrier to entry and make the allocation of shorter series more difficult.

1.272 **Slot coordinators:** Brussels Slot Coordination anticipated that an increase in the minimum series would improve the stability or schedules for the customer, and that it would increase the number of slots returned to the pool and therefore opportunities for carriers to develop their services. EUACA also supported an extension to 10 weeks in winter and 15 in the summer, but suggested that this could be accompanied by local rules where necessary (it was suggested that some Greek islands have a summer season of only 6-8 weeks). The need for some kind of differentiation between leisure and non-leisure airports was supported by COHOR, although it did not provide suggestions for new minimum levels. Airport Coordination Norway also favoured an extension, but to 8-10 weeks and potentially retaining the 5 week minimum in winter. ACD believed that the current 5 weeks was fair for both carriers and airports.

1.273 **Member States:** Most States provided balanced responses, emphasising both advantages and disadvantages (only Italy was clearly in favour). Advantages were cited as increasing the size of the pool, slot utilisation and competition (as slots will be less attractive to small, less viable carriers); and reducing fragmentation of slot series. Disadvantages included the favouring of carriers with long series over BA/GA and charter operators and carriers operating empty flights to retain historics. Belgium and the UK stressed that the rule should not be changed without evidence that this would be beneficial (the UK adding that it would support a change if this was the case). It was stated by France and another Member State that any solution would have to be determined at the European level in order to ensure consistency, whereas the UK suggested allowing airports the flexibility to increase the threshold via local rules. DGAC France proposed consideration of a series length of 10 weeks or less, and ENAC proposed at least 7.

1.274 **Other:** Norton Rose provided the most detailed response, which echoed the statements made by some of the airlines regarding the mismatch between the summer and winter seasons and the need to ensure uniformity worldwide, therefore concluding that increasing the current minimum would not deliver significant advantages. EEA supported an increase from 5 to 8 weeks, and DCCA was broadly supportive but did not suggest a minimum. However, it also highlighted that the proposal could be disadvantageous from a competitive perspective, as it extends the undesirable concept of grandfather rights.

Question 29.2 Please specify any impacts this would have on (a) the proportion of slots for which services would be scheduled; (b) the proportion of slots for which services had been scheduled that would actually be used; (c) the mix of traffic; (d) administrative costs; (e) competition; and (f) any other impacts.

1.275 **Airline and airline associations:** Again, a number of carriers did not discuss the

impacts of the proposal, reiterated a need for a detailed study, or suggested that the impact would be to force carriers to run empty flights in order to maintain their slot portfolio. Of the remainder, one non-EU carrier forecast (a) a reduction in the proportion of slots for which services would be scheduled, (b) not less than 80%, (c) a favouring of scheduled traffic, (d) lower costs and (e) 'predictable' competition. NetJets cited impacts in some of these areas, predicting (c) limitations on the mix of traffic, as this would be advantageous only for network carriers, (d) no significant administrative costs and (e) negative effects on competition as already dominant carriers would benefit from the proposal. easyJet anticipated that competition would increase, as extra services would be provided during shoulder and off-peak months, and five network carriers could anticipate only increased costs, four adding that business / general aviation would suffer as fewer pool slots become available.

1.276 **Airports and airport associations:** ACI Europe, BAA and Manchester believed that the main benefit would be to encourage the early handback of slots by charter carriers operating short season routes, particularly if these were peak hour slots which could be used effectively by other carriers; Oslo Airport that there would be less flexibility for holiday airlines.

1.277 **Slot coordinators:** The slot coordinators did not respond to this question

1.278 **Member States:** The Member States did not respond to this question

1.279 **Other:** Only DCCA commented on the impacts, predicting positive impacts on competition as it would be harder to obtain grandfather rights, possibly increasing slot availability at congested airports.

Question 30: What further role do you think the coordinators should have in the context of SESII? How do you think the slot allocation system and SESII should interact? What mechanism should be used to resolve inconsistencies between flight plans and airports slots? Could the Network Manager use or influence the slot allocation system? How? Are there are any additional issues with slot allocation arising from SESII which we should be aware of?

1.280 **Airlines and airline associations:** AEA, IATA and several airlines said that coordinators were not in a position to provide anything beyond local slot information: in particular they are not in a position to provide information on airline schedules as they only have access to local information, and therefore they could not assist the network manager in planning ATFM. They argued that only airlines could provide this information; in addition, they said that the network manager should not have any say in slot allocation. Air France said that slot coordination and SES were separate issues and there would always be inconsistency between AFTM slots and airport slots. It also said that this issue had already been discussed in the framework of the Capacity Observatory, and there was no agreement that any major change was required. IACA said that there was no link between slot allocation and SES, and slot coordinators should not play any role. easyJet said that flight plans needed to be consistent with slots but that they should reflect the natural volatility of the industry, and therefore it was not possible to reject flight plans where a flight was off slot. Some other airlines said it was too early to comment as the shape of SESII was not clear.

1.281 **Airports and airport associations:** ACI said that coordinators could not provide any service in SESII that could not adequately be provided by other stakeholders. It also said that the network manager should neither influence the slot allocation process nor the declaration of capacity parameters. BAA and the German Airports Association said that coordinators should not undertake a greater operational role: capacity could vary on the day but there were established procedures to deal with this between air carriers, airports and air traffic management. However, they agreed that coordinators would have to work closely with the network manager to make best use of available capacity. Manchester and Zurich Airports agreed that the network manager should not have any role in slot allocation; its role should be limited to safety. Gatwick airport said that CFMU should ensure that it does not allocate capacity to flights that do not have airport slots, but that it is already very rare that this happens. However, Oslo airport said that the coordinators should play a significant role in SESII, providing information and ensuring consistency.

1.282 **Slot coordinators:** EUACA said that the main role for coordinators in SESII could be to provide information to the network manager and other entities that needed it, potentially covering non coordinated airports as well as coordinated airports. It also considered that in exceptional circumstances, such as the volcanic ash cloud, there should be a mechanism to allow emergency intervention at non-coordinated airports. The French coordinator also argued that coordinators could collect information, covering all airports, which would assist the network manager in planning the system; however, it considered that the network manager should not impose any constraints on scheduling. Brussels Slot Coordination also said that the coordinator should play a key role in SESII by providing information. Airport Coordination Norway agreed that airport and airspace slots should be as much in accordance with each other as possible.

1.283 **Member States:** Spain said that the coordinators should have a key role in circumstances such as the volcano eruption, but that interaction between coordinators and the network manager in the operational phase would be difficult as coordinators are focussed on planning. It thought that there could be benefits in greater consistency between the Implementing Rules for the network manager function and the slot Regulation, for example by considering the route planned at the time the airport slot was granted. Any process for checking flight plans against airport slots should involve the coordinator and distinguish between no slot and off slot operations; the latter routinely arise for operational reasons. Belgium said that automated systems at CFMU-level should help prevent flights taking place without a valid airport slot, and Sweden also said that it supported more cooperation between the coordinator and ATFM.

1.284 However, another Member State said that it was not convinced that closer interaction of slot coordination and SESII would lead to better use of capacity. France said that coordinators should not have an expanded role in SESII and there was already a mechanism for ensuring flight plans were not accepted if there was no airport slot; however coordinators could provide information to the network manager at the slot return date to help it plan capacity. The UK noted that the Regulation already allows for flight plans to be rejected if the flight does not have an airport slot and therefore no change to the Regulation was required; at most an implementation mechanism might be required.

1.285 **Other stakeholders:** Norton Rose said that Article 14 already addresses slot abuse and no change to the Regulation was required. PANSA said that in the case of special events the network manager could influence slot allocation, and that it could provide slot coordinators with information on airspace capacity, but that slot allocations and timings should generally be decided at local level. Danish Aviation said that coordinators should not have a role in SESII other than providing information to air traffic management. A citizen said that aerodrome planning and capacity use should be an integral part of flow management.

Question 31: Are there any other issues with the operation of the current Regulation to which you would like to draw our attention? Please give details

1.286 **Airlines and airline associations:** easyJet suggested that the Commission should lead development of guidance on the application of the Regulation, to be applied by coordinators; this should cover any limitations on the changes that can be made to new entrant slots, definition of when changes can be made to ad hoc slots, and definitions of slot sharing to form series. It also suggested there should be clarity about whether the 80-20 rule would be suspended again in future. ERA and Air Berlin emphasised that in their view a change to the Regulation was not required; Condor said that only minor changes should be made, for example, to the new entrant rule. Air France and others emphasised that the main priority should be provision of sufficient airport capacity and that revisions to the Regulation would not address this problem.

1.287 Other airlines said that it was important that the Regulation was consistent with the IATA World Scheduling Guidelines, to ensure the proper functioning of the global airline scheduling system, and to avoid retaliation against EU airlines. Other airlines also said that the Commission should ensure that the Regulation is properly implemented by all Member States and make sure that local rules are consistent with the Regulation. Another airline said that the slot return deadline could be brought forward in order to give more time for planning. Airlines also emphasised that proper implementation of the existing Regulation would solve most issues with the system: in particular, the requirement that a proper capacity analysis be undertaken before an airport is designated as fully coordinated, as they said that some airports had been designated fully coordinated without this being necessary.

1.288 **Airports and airport associations:** Fraport said that Article 14 was too restrictive with relation to imposition of sanctions, as it only allowed sanctions for repeated *and* intentional abuse which caused prejudice to airport operations; sanctions should be possible for repeated or intentional abuse. The German Airport Association said that airports should have an enhanced rule in definition of coordination parameters and allocation of slots.

1.289 **Slot coordinators:** EUACA said that there could also be problems at level 2 airports and that, in the context of the Single European Sky, there could be consideration given to only having level 1 and level 3 airports.

1.290 **Member States:** Belgium said that the Regulation should be more specific about protection for coordinators by Member States in the event of complaints. The UK suggested two relatively minor changes, to remove the reference to ‘airport system’ and to amend Article 9 to make clear that States can only reserve slots for PSO services at airports on their territory. France said that revisions to the Regulation

should not disadvantage EU carriers in competition with non-EU carriers, which it considered that many of the proposals would do. Italy said that airlines should not be permitted to use the slots of other carriers, even when they operated a joint service, as this gives an unfair advantage to alliances.

1.291 **Other stakeholders:** The European Express Association said that a balance between passenger and cargo operators should be achieved; cargo operators are critical to world trade. PANSA, the Polish air navigation service provider, said that the Implementing Rules for the Network Manager Function should apply to slot coordinators (for planning purposes not for daily operations) and this could be critical for planning of special events such as major sporting events. The Aviation Environment Federation reiterated that the priority should be measures which ensured better use of existing capacity, rather than capacity expansion.

CONTROL SHEET

Project/Proposal Name:	EUROPEAN COMMISSION
Document Title:	Impact assessment of revisions to Regulation 95/93
Client Contract/Project Number:	
SDG Project/Proposal Number:	22282601

ISSUE HISTORY

Issue No.	Date	Details
1	**17/1/2011**	**Draft final report issued**
2	**17/3/2011**	**Final report issued**

REVIEW

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Review By:	Print:	Stephen Wainwright
	Sign:	Reviewed electronically

DISTRIBUTION

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