

FUTURE EU TRANSPORT POLICY – A CONSULTATION BY THE EUROPEAN COMMISSION

A CONTRIBUTION FROM EUROPEAN REGIONS AIRLINE ASSOCIATION (ERA)

ERA's focus in this contribution mirrors that of the majority of its airline members: passenger travel between the regions of Europe and major conurbations, and to and from "hub" airports for worldwide connections, travel between two regions of Europe, and travel within a region.

This travel includes short distance travel to, from and between island communities, travel across other physical land and water barriers, travel to and from both large and small communities remote from major conurbations, and travel over both short (under 100 km) and long (over 1500 km) distances.

The average distance flown by a passenger on Europe's regional airlines is 575 km, a journey which takes less than 1¼ hours.

Source: ERA statistics

<http://www.eraa.org/fly-europe/statistics.php>

Journeys on ERA members' flights are undertaken both for business and for leisure purposes, and additionally for "domestic business", for example students travelling to educational institutions, workers (such as politicians and intra-Community migrants) commuting regularly between home and distant work locations, and the general population travelling to major healthcare institutions. Thus the air services that meet these journey requirements meet both economic and social needs. They have been demonstrated to maintain and generate employment in the regions, and reduce population drift from the regions to major conurbations.

Almost half (44%) of the journeys undertaken on Europe's regional airlines are for business purposes, and many others are for social purposes other than holiday travel. The typical regional aircraft – ERA members' aircraft have 76 seats on average – is not economic for mass leisure travel.

A similar proportion (42%) of passengers using Europe's regional airlines are making a connection to or from another flight.

One in six (16%) passengers returns home on the same day, ie is making a day trip.

Source: ERA statistics

<http://www.eraa.org/fly-europe/statistics.php>

While uninformed debate often suggests that passenger journeys up to 1000 km should, or could, in future be met by rail services, this would require a massive investment in very high-speed rail services to small communities, an exercise which would clearly be both economically unjustifiable and unaffordable without substantial additional taxation.

A restriction on air travel to and from Europe's regions, whether by regulatory constraint, infrastructure constraints or punitive taxation, will rarely result in additional travel by high-speed rail. The main alternatives are standard rail services or private cars. In general, travel by private car is increasing at the expense of standard rail services. Consequently, any restriction on air services to Europe's regions is likely to lead to an increase in the use of less environmentally attractive private cars.

In addition, a reduction or cessation of regional air services would increase the unacceptable "excessive isolation of Europe's regions".



“During the 1990s, Europe began to suffer from congestion in certain areas and on certain routes. The problem is now beginning to threaten economic competitiveness. Paradoxically, congestion in the centre goes hand in hand with excessive isolation of the outlying regions, where there is a real need to improve links with central markets so as to ensure regional cohesion within the EU. To paraphrase a famous saying on centralisation, it could be said that the European Union is threatened with apoplexy at the centre and paralysis at the extremities.”

Source: European Commission White Paper 2001 “European Transport Policy for 2010: Time to decide”

In this context, Europe’s regional airlines provide essential public transport to the residents of Europe’s regions which is no less important, and in many cases more important, than that than provided by alternative means of public transport.

Over half (51%) of the EU’s 396 airports serve less than 0.5 million passengers per year, and almost two-thirds (62%) serve less than 1 million passengers per year. The vast majority of these airports are in Europe’s regions.

By 2017, high-speed rail routes in operation or under construction will comprise 4% of the EU’s rail network. The vast majority of this track serves only major centres.

Among EU member states, France has both the longest high speed rail network (1900 km) and the greatest number of regional airports (44).

Source: European Commission transport infrastructure statistics – only includes airports that serve at least 15000 passengers per year.

http://ec.europa.eu/transport/publications/statistics/statistics_en.htm

Notwithstanding the fact that air transport serving Europe’s regions is not substitutable by rail services, the expansion of high-speed rail and additional linkage between high-speed rail and regional air services (increasing the opportunities for “co-modality” between rail and air) is welcomed by ERA.

This is subject to the condition that the high-speed rail services should compete with commercial air services on a “level playing field”. In particular, there should be equality of taxation, subsidies, and infrastructure cost recovery – these must be considered together to understand the financial relationship between transport operators and governments.

Similarly, where journeys by sea are an alternative to air travel, shipping companies and airlines should be subject to equivalent legislation.

Inequality of taxation imposed by EU member states

Many EU member states treat different modes of transport in different ways regarding direct taxation. In some states, air transport is treated more favourably than rail. In other states, rail is treated more favourably than air. For example, in the UK, air passenger duty is paid by airlines for each embarking passenger, both domestic and international, but there is no similar tax applied to rail operators. In 2008, air passenger duty raised GBP 1.9 billion, equivalent to € 2.2 billion at August 2009 exchange rates.

Source: UK HM Revenue and Customs

<https://www.uktradeinfo.com/index.cfm?task=bullair>



Inequality of subsidies by EU member states

While not all state subsidies are classified by the European Commission as state aid, it includes data for rail and air subsidies in its annual publication on state aid. The latest report shows annual subsidies of €121 million for air transport and over €46 billion for rail transport.

“Over the period 2005-2007, an annual average of € 121 million of aid was reported by Member States for the air transport sector.”

“A large amount of public financing for railways is not notified to the Commission, either because the financing, due to the lack of liberalisation of the sector, is not deemed by Member States to constitute State aid within the meaning of Article 87(1) of the EC Treaty,⁹² or because it is exempted from notification in accordance with Regulations 1191/69 and 1192/69. Member States are however required to report to the Commission overall public expenditure to this sector. Over € 46 billion was reported by Member States for 2007.”

Source: European Commission State Aid Scoreboard - Autumn 2008 Update
http://ec.europa.eu/competition/state_aid/studies_reports/archive/2008_autumn_en.pdf

Environmental considerations, including both operating constraints and financial instruments must be applied in a transparent and rational manner and, most importantly, must be based on a robust and rational examination of facts rather than on strongly-held but irrational convictions which are not based on a true understanding of the facts. As an example, the environmental comparison of air transport and high-speed rail is commonly misunderstood.

“To a large extent, the business case for investment in a high-speed rail project is dependent on a decrease in emissions of greenhouse gases. But in fact the reductions [in greenhouse gas emissions] that can be reached through railway investments is minimal.”

Source: Translation from Expertgruppen för miljöstudier (Expert Group for Environmental Studies, Ministry of Finance, Sweden) press release and report, 21 August 2009
<http://www.ems.expertgrupp.se/Uploads/Documents/Pressmeddelande%20090821.pdf>
http://www.ems.expertgrupp.se/Uploads/Documents/Rapport%202009_3%20Hela.pdf

This principle of rational fact-based analysis must apply to all environmental constraints. It must also apply to the assessed, predicted, and potential environmental damage and risks. All regulation must be subject to the principles of better regulation.

Inequality of environmental legislation

Regulation is in place to ensure that aviation is subject to carbon emissions trading from 2012. No similar legislation is in place for rail, even though (according to its own publications) almost two-thirds of its production is, and will remain, based on fossil fuels. Furthermore, rail operators are not subject to the long-term environmental costs of nuclear energy, their second most important source of power. These include the enormous costs associated with the de-commissioning of nuclear power plants, costs which are estimated to be in the range of EUR 80-120 billion for one member state (UK) alone.

The overall energy source for rail in 2010 is forecast to be: Fossil 64%, Nuclear 22%, Other 14%

This is derived from the forecasts of sources of energy consumed by the rail industry:

80% of rail's production uses electric traction. The remaining 20% uses fossil fuel (diesel).

2010 Forecast energy for electricity generation: Fossil (oil, gas, coal) 54%, Nuclear 28%, Other 18%

2020 Forecast energy for electricity generation: Fossil (oil, gas, coal) 55%, Nuclear 25%, Other 20%

Source: European Railway and Infrastructure Companies (CER) and the International Union of Railways (UIC)
<http://www.uic.org/homepage/FactandFig%2011-08.pdf>



All other regulations governing the different modes of transport should be identical or equivalent and must also be subject to the principles of better regulation. These other regulations encompass topics as diverse as safety, anti-terrorist security, passenger rights, access to infrastructure, and internalisation of external costs.

Inequality of equivalent legislation – a recent example

Air passenger rights legislation (effective from 2005) applies to all air passengers on domestic and international flights within and departing from the EU, and to passengers travelling to the EU on EU airlines. Only the tiny number of passengers travelling on helicopter flights are not covered by the legislation.

Almost all of the rail passenger rights legislation (effective from 2009) only applies automatically to the small minority of rail travellers making cross-border journeys within the EU, as member states are permitted to exempt all domestic rail services, with a time limit of 15 years on exemptions for inter-city journeys.

Thus, on directly competing domestic routes within EU member states, air passengers have inalienable rights conferred by EU legislation, whereas rail passengers' rights depend on the position of the government of the member state.

REGULATION (EC) No 261/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004R0261:EN:NOT>

REGULATION (EC) No 1371/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2007 on rail passengers' rights and obligations

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007R1371:EN:NOT>

The Report of the High Level Group for the future European Aviation Regulatory Framework published in July 2007 recommends the implementation of “better regulation” principles for aviation; ERA recommends that these principles are enshrined across all transport modes in the Commission’s future transport policy.

Under the principles of better regulation, ERA urges all EU legislative institutions to have a full understanding of the impact of the final version of legislation before its approval in Parliament and Council. This would lead to significant improvements in legislation compared to the current situation where only the initial proposal, which in many cases varies widely from the final version, is subject to an impact assessment. All impact assessments should include the effect of the legislation on the key priorities of the Lisbon Agenda: “more and better jobs”.

“The High Level Group supports the Better Regulation agenda communicated by the Commission. In particular for aviation, the High Level Group recommends following the seven steps identified at the Brussels Conference. These should be applied in the development of new aviation regulation and in the rationalization of existing legislation:

- identify the problem and outline the current consequences
- assess the significance of the problem
- identify the affected parties
- outline the objective to be achieved
- establish whether regulatory action is necessary
- identify the minimum legislative action necessary
- conduct impact assessments.”

Source: Report of the High Level Group for the future European aviation regulatory framework July 2007 (Page 12 Section 3.3.a)

http://ec.europa.eu/transport/air/doc/hlg_2007_07_03_report.pdf



European transport policy should continue to seek ways to reduce the environmental burden imposed by all modes of transport operations. The provision of additional infrastructure for air transport both on the ground and in the air will improve the efficiency of air transport and reduce its environmental footprint. ERA endorses policies that will increase airport capacity and lead to the implementation of a Single European Sky.

ERA submits that the European air transport market is functioning adequately. The necessary European regulation to facilitate the internal market in aviation is already in place although, in many cases, the administrative burden should be reduced. In addition, there are many instances of where the implementation of existing legislation should be improved. The regulatory focus for air transport over the next 10 years should be to lessen the administrative burden through the removal or simplification of unnecessary existing legislation, and to ensure, through the implementation of the principles of “better regulation”, that any additional regulation is both necessary and cost-effective.

September 2009

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Initial response by ERA (European Regions Airline Association) to European Commission review of transport policy – March 2009

ATTACHMENT 2

A Joint Response by AEA, ERA and IACA to the Invitation from the European Commission High Level Group of Independent Stakeholders on Administrative Burdens – January 2009



ATTACHMENT 1

INITIAL SUBMISSION BY ERA (EUROPEAN REGIONS AIRLINE ASSOCIATION) TO EUROPEAN COMMISSION REVIEW OF TRANSPORT POLICY

ERA (European Regions Airline Association) submits this paper in preparation for the High Level Conference on 9-10 March 2009.

ERA will submit further papers as the process to develop the European Union's transport policy progresses during 2009.

This submission focuses on air transport and its interaction with other modes, in particular rail services.

1. The "greening" of transport

1.1 Environment – emissions, climate change and other physical factors

A sustainable transport policy for Europe must be based on accurate assessments of the real costs incurred by users of each transport mode and the recognition that subsidising the full costs, on any mode of transport, will generate environmentally unsustainable consumer demand. Subsidies should therefore be limited to meeting economic and social needs (for example transporting large volumes of passengers by bus and rail into and out of major conurbations, providing sea and air connections to remote islands, providing air connections to remote communities).

The present basis for charging consumers both external costs and the costs of infrastructure creates massive competitive distortions, particularly between high-speed rail services and air services. High-speed rail services generally receive large subsidies for both infrastructure costs and operating costs which are not shared by air services.

While infrastructure cost subsidies may become less of a distortion if TEN-T funding is increased for the Single European Sky (SES) and SESAR projects, they will not disappear due to much higher state funding for rail infrastructure than for air infrastructure.

Current regulatory policies also fail to recognise the full costs of energy production for high-speed rail services, as in some states much of the production is nuclear powered, and the costs of both safe waste disposal and the risk of accidental damage (which could be catastrophic) are ignored. It also appears that the assumed energy efficiency of high-speed rail compared to equivalent services by air is based on inaccurate assumptions. Such fundamental issues should be based on solid scientific grounds.

1.2 Environment – noise

Where it is determined that the regulation of noise is required either by legislative or economic means, it is essential that local conditions are taken into account. Aircraft noise is restricted to the close vicinity of airports. At many airports in Europe, this does not create any disturbance as the local population is not affected due to the distance from the airport, or due to the physical location of the airport and its aircraft approach and departure paths.

A "one-size fits all" solution is inappropriate to tackle noise disturbance unless it takes these factors into account.



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1.3 TEN-T

The TEN-T policy review is clear in its prime objective: the provision of high-quality, efficient and environmentally sustainable transport systems which are safe and secure and which meet European objectives, in particular those related to socio-economic goals and social cohesion. The environment goal places TEN-T policy within the concept of the “greening” of transport.

The two most far-reaching projects for air transport that should be included within the TEN-T programme are the Single European Sky (SES) initiative and the SESAR (European Air Traffic Management modernisation) programme.

The most important deliverable of the SES initiative is the creation and successful operation of revised Functional Airspace Blocks (FABs). Changes to existing FABs are required to provide more direct routings, and to reduce congestion and delays. Both of these will provide significant environmental improvements in addition to improving the efficiency of air transport by reducing journey times. Many cross-border FABs are required to meet this objective. Member states will need encouragement and assistance in funding such projects as otherwise, as is typical with TEN-T projects, much of the cost will fall on states which gain little benefit, leading to slow, or no, forthcoming investment and change.

The SESAR programme will go much further in facilitating safe and sustainable growth for air transport to cater for future demand, thus enabling air transport to continue to play its leading and irreplaceable role in meeting Europe’s overall socio-economic and social cohesion objectives. Failing to plan and provide for this growth in an environmentally sustainable manner will inevitably lead to a centralisation of jobs in Europe and weaken the outer regions of each member state and of the EU as a whole.

1.4 Research projects

In order to make further progress on the “greening” of transport, investment in infrastructure under the TEN-T policy should continue to be supplemented by research into innovative solutions for the provision of air transport services that will increase their environmental sustainability through a reduction in emissions of potentially climate-changing gases.

The investment programme for aerospace being undertaken in the Seventh Framework Programme for research and technological development must therefore be continued in future research budgets.

2. “Putting passengers first”

The two most fundamental rights for passengers, and also for mobile staff, are the right to a safe and secure journey. Other benefits for passengers enacted through legislation should not jeopardise these fundamental rights. Both safety and security initiatives must follow best regulatory practice and be subject to a scrupulous safety benefit case which has not been influenced by political pressures.

2.1 Safety – the establishment of a single EU air accident investigation bureau

The industry believes that air accident investigation would be performed more efficiently through a single EU body. However, this would need to be structured using existing people and expertise in member states, and should not be set up with its own newly recruited staff. The ability to pull experts together from across the EU to address an accident would achieve not only efficiency



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gains, but, more importantly, potentially lead to faster safety recommendations thus improving air safety.

2.2 Security - rationalisation of air transport security legislation

European air transport security is governed by legislation, rules, policies and recommendations by ICAO, ECAC, EU, EASA, Eurocontrol and National Aviation Authorities. The industry seeks a single source for the security legislation by which it is bound.

In addition, the implementation of one-stop security would make further checks of transfer passengers and their luggage redundant. The revised EU Regulation 300/2008 even demands the acceptance of security standards of non-EU countries; either the European Commission decides that the measures taken by the third country correspond to EU standards or security standards are part of the respective air transport agreement. The current problems of the second-stage negotiations between the USA and the EU illustrate that the European Commission should take action and start investigations on the security standards of non-EU countries. Those actions could relieve passengers and reduce costs.

2.3 Other rights for all passengers, including passengers with reduced mobility

Following assurance of a safe and secure journey, passengers who have a choice between commercial operators over how they make their journey are less in need of substantial rights. More protection may be needed in the face of a monopoly supplier although, for many journeys, passengers not only have a choice of operator between an identical pair of points (stations or airports), but can also choose to use a competitor's services from a nearby airport or city.

If passengers are given a choice, then there is no need to impose penalising passenger rights' legislation in order to improve an operator's performance, unless that operator receives such large subsidies that its economic future is protected irrespective of its performance standards for customers.

It is arguable that the cost of looking after passengers when things go wrong is a reasonable if costly right, but it must be recognised that, even though the cost initially falls on the operator, it is ultimately shared amongst all users of that operator's services through higher fares. This puts up the cost of doing business in Europe, and is therefore one factor acting against Europe's worldwide competitiveness.

Legislating to provide additional financial compensation to passengers (including full or partial refunds to passengers who continue with their journeys) when things that are outside an operator's control go wrong, is also a way of increasing the cost for all other passengers. Regulators should be aware that this philosophy will further weaken Europe's worldwide competitiveness.

3. Regulatory costs

ERA, together with AEA and IACA (the two other leading European air transport associations) jointly submitted 30 proposals to for reducing administrative costs in response to the initiative of the Commission's High Level Group on Reducing Administrative Burdens. These were presented to the Commission at the meeting held under the auspices of the High Level Group on 16 February 2009.

Many of the proposals require changes to legislation, and, if accepted, will form part of the Commission's legislative workload for several years to come. For this reason, it is essential that the



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revised transport policy takes account of the work of the High Level Group and the submissions made which are relevant to the administrative burdens currently imposed on transport operators.

While it is not appropriate to repeat the air transport submission to the High Level Group in this paper, some key issues are covered in this section.

3.1 EASA (European Aviation Safety Agency)

Overall charges to industry have increased since the formation of EASA due to duplication of activity. The establishment of EASA should have led to efficiencies which should be reflected in an overall reduction of charges.

The basic EASA regulation in its revised version, EC Regulation No. 216/2008, defines, in Article 2 Para 2 c), as an additional objective of the regulation, "to promote cost efficiency in the regulatory and certification processes and to avoid duplication at national and European level". This aspect was also part of the basic EASA regulation in its initial version in EC Regulation 1592/2002. Actually, this was and is one of the main reasons for the establishment of EASA. If EASA assumes responsibilities in EU air transport safety regulation and oversight - a move that is fully supported by the European air transport industry - NAAs must be adjusted accordingly, i. e. they must be downsized. Otherwise, the objective of cost-efficiency cannot be achieved.

So far, and six years after adoption of EC Regulation 1592/2002, improved cost-efficiency in the regulatory and certification processes is not visible. The EU should investigate and take action to safeguard progress in cost-efficiency in the air transport safety administration. Ultimately, national aviation authorities should be completely integrated in a decentralized EASA structure.

EASA should develop a 'road map' that improves EASA's overall efficiency without degrading safety oversight by defining clearly:

- the respective roles, responsibilities and resource requirements of EASA and NAAs
- a requirement to examine all possible opportunities to achieve reduction in the aggregate cost of safety regulation, including economies of scale, use of best practice and integration of NAAs' systems and services across national boundaries, for example, by the delegation of tasks from EASA to specific NAAs
- performance and efficiency targets
- measures to ensure that safety requirements are interpreted and implemented on a consistent basis throughout EASA member states, and measures to apply sanctions against NAAs that fail to meet this requirement.

3.2 Harmonisation of European certification, rules and guidelines

In particular, the industry calls for the elimination of national variations for aircraft certification imposed by NAAs, and hence the elimination of additional administrative costs. Any aircraft considered safe by one EU NAA should be deemed safe for operation in any other EU member state.

This could be achieved by one simple remedy: the introduction of an EU aircraft register. As EU legislation permits any airline based in a member state to fly its aircraft, registered in its home state, on commercial services in any other member state, there should be no barrier to creating a single register for all aircraft registered in EU states. Consequently, any EU operator would be able to fly any EU registered aircraft in any EU member state without the need for additional approvals and, in many cases, changes to aircraft or operating manuals.



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4. Other policy issues

4.1 Infrastructure capacity

In addition to the Single European Sky (SES) and SESAR programmes covered in Section 1 above, there should be additional efforts to remove traffic bottlenecks. In particular, airport development should be undertaken to improve capacity at congested airports. In some cases, the application of best practices used at other European airports which could be implemented at no, or relatively low, cost would provide quick benefits.

4.2 Industry susceptibility to external factors

Some air transport legislation has proved to be too inflexible to allow Europe's air transport industry the promise of future stability when reacting to a sudden downturn in expected demand. This situation arose following the terrorist attacks on 9/11, during the SARS epidemic in 2002/3, and is now arising again in the current global financial climate.

Legislation such as the existing slot allocation rules penalise airlines when they cut capacity to match demand. These cuts are essential both on economic grounds and also on environmental grounds. This has led to emergency changes of legislation which has required the goodwill of the Commission, Parliament and Council.

Future legislation, and changes to existing legislation, should be developed to take account of the impact of these external factors to ensure a stable European air transport industry.

4.3 Social and labour policy

The revised transport policy must recognise any implications for social policy and labour conditions. However, the role of determining social policy should remain with DGEMPL, as policy for workers should remain matched to those in other sectors, taking account of the different employment issues for non-operational ground staff, operational ground staff and mobile workers. The air transport industry and its employees continue to engage in the Civil Aviation Sectoral Social Dialogue with the objective of recommending changes to social legislation and formulating social agreements.

5. "Better regulation"

Every initiative undertaken under the theme of a European transport policy must be subject to the principles of "better regulation". These principles are defined in the report of the High Level Group for the future of European Aviation Regulatory Framework published in July 2007 and should apply to initiatives across all modes of transport.

In addition, all those who play a role in developing Europe's transport regulatory framework should remain aware at all times of the likely impacts of their positions on Europe's competitiveness in world markets. It is surely not acceptable to continue with the status quo where the impact of the final form of most transport legislation is unknown at the time it is approved by Parliament and Council.

March 2009



ATTACHMENT 2

REDUCING BUREAUCRACY IN THE TRANSPORT SECTOR

**A Joint Response by AEA, ERA and IACA to the Invitation from
the European Commission High Level Group
of Independent Stakeholders on Administrative Burdens
dated 21 November 2008**

Administrative Burdens Applicable to the Commercial Airline Sector



REDUCING BUREAUCRACY IN THE TRANSPORT SECTOR

A Joint Response by AEA, ERA and IACA to the Invitation from the European Commission High Level Group of Independent Stakeholders on Administrative Burdens dated 21 November 2008

Administrative Burdens Applicable to the Commercial Airline Sector

Introduction

We, the European air transport industry represented by AEA, ERA and IACA¹, welcome the Commission's initiative to reduce administrative burdens on businesses in the EU by 25% by 2012. As you might be aware, the airline industry has always taken the position that administrative burdens should be kept to the minimum, in order to provide for a healthy and competitive European environment for both the industry and the market to function. We also supported the Commission's Action Programme initiative in 2007. Therefore, we are happy to contribute to the discussion within the High level Group of Independent Stakeholders on Administrative Burdens (HLG) and provide you with our ideas on concrete measures and legislation that is considered to be burdensome.

However, we note that previous initiatives on improving legislation have not achieved optimum results because of a failure to carry them through to the necessary extent. For example, while the Commission is now accompanying more of its legislative proposals with an impact assessment as proposed in its "Better Regulation" initiative, the impact is not re-assessed in the light of changes proposed or agreed by Parliament and Council. Thus the impact of the final version of any legislation is unknown. This situation would not be acceptable in member states such as Germany, Netherlands and UK when developing their own legislation.

The impact assessments that are currently performed for legislation specific to air transport are generally inadequate as they focus on very narrow and specific implications on the industry itself and do not examine, for example, the wider implications on jobs within and outside the air transport industry. Inter alia, the impact on the objectives of the Lisbon Agenda is never evaluated or understood. Also, in some cases, consultation by the Commission (and/or its designated consultancies) proves to be often no more than a 'tick-in-the-box' exercise, missing adequate input from the industry as to the concrete administrative consequences of measures that deem to be necessary. It is unfortunate that the European legislator does not make better use of the expertise that is available within the industry it tries to better regulate.

This has led to the introduction of rules and regulations that have lower added value than other initiatives. For example, we have seen changes to the EU regulation governing computer reservation systems, while the industry's call for regulation of de-icing activities at airports, which threatens air safety and puts passenger and crew lives at risk, has gone unanswered. Also, as the airline industry has been liberalized, it would be logical that the European institutions focus on a deregulation of service providers to airlines, rather than re-regulate airlines. The European legislator often seems to ignore that self-regulating mechanisms are present in the competitive airline market, driven by the choice made by customers.

¹ AEA (Association of European Airlines), ERA (European Regions Airline Association), IACA (International Air Carrier Association)

Furthermore, burdens are imposed on the air transport industry by rules and regulations imposed by other bodies, in particular by the European Air Safety Agency (EASA) and Eurocontrol. These bodies are not generally following the “better regulation” guidelines. Further burdens are imposed by member states, in particular through the activities of National Aviation Authorities (NAAs).

Unnecessary burdens are also created by the eight week consultation period usually imposed by European bodies for changes to rules and regulations. By contrast, the standard EASA consultation is 3 months, and, under the UK’s better regulation policy, the standard UK consultation period is 12 weeks. As the consultation period shortens, there is an equivalent increase in the number of employees involved, because the man-hours necessary to create a response is unchanged. The shorter the timescale, the greater is the disruption to standard activities.

The industry therefore believes that there is much scope for reducing burdens, and that there are many opportunities to achieve these savings.

Note that some of the items below appear under more than one heading. For example, the emissions trading legislation itself is overburdensome, and its application will also lead to unnecessary burdens. Hence different elements of emissions trading appear under “concrete measures” and under “European legislation”.

Concrete measures to reduce administrative burdens

This section relates in particular to the means of complying with legislation. These may be governed by specific rules or procedures imposed by regulatory bodies such as the Commission, EASA, Eurocontrol and NAAs.

1. Inclusion of aviation in the European emissions trading scheme

While much of the administrative burden on air transport of joining the EU emissions trading scheme is detailed in the Directive or will be spelled out in the measuring, reporting and verification (MRV) Guidelines, additional burdens may be imposed by member states in their individual requirements, in particular relating to monitoring programmes. These are currently under negotiation.

The MRV-Directive is to be transposed into national legislation with potential problems of harmonized implementation. To name a few problems, we foresee:

- Difficulties and unnecessary burden on the airlines in the event of translation of the MRV requirements into the language of the country the airlines operates to most frequently (i.e. EU-OPS is in English, why not have the same for this Directive?);
- Problems with IT captures, electronic systems and the formats to gather all MRV information;
- Many Member States will require verification of the MRV data which has been submitted by the airlines. The cost of this verification of data will most probably have to be borne by the industry.

2. Airport security and national security disclosure requirements

An employee who needs airside access to multiple airports in different states of the EU needs to get clearance from each state, and may need to obtain individual clearance for different airports within one state. As all clearances are governed by European rules, the industry calls for mutual recognition of passes which allow access to restricted parts of an airport.

3. EASA Notices of Proposed Rule Making

In 2008, EASA produced a number of consultation documents. These were lengthy – recent EASA proposed amendments for consultation on flight crew licensing and authority/organisation requirements were 792 and 752 pages respectively – and not structured in a way that allowed an individual respondent to find relevant material without examining the entire document. Thus each respondent, making either a direct response to EASA or a contribution to a response by a trade association, incurred significant wasted time. Further, several rulemaking activities and subsequent consultations are launched without a real safety case to determine the actual need for further regulation, e.g. child restraint systems. In other cases, EASA publishes studies that are rather provocative than constructive, e.g. scientific and medical study on flight time limitations.

4. Clarification of liabilities in the event of an in-flight security threat

Member states have the right to require aircraft to divert when there is an in-flight security threat, for example a bomb threat against a specific flight. There are no procedures for limiting the liability of an aircraft operator should the member state take inappropriate action which results in damage. This damage could encompass physical damage, damage through unnecessarily lengthy delays to passengers, or damage due to the aircraft being unable to perform subsequent sectors resulting in subsequent delays or cancellations.

5. Harmonisation of European certification, rules and guidelines

In particular, the industry calls for the elimination of national variations for aircraft certification imposed by NAAs, and hence the elimination of additional administrative costs. Any aircraft considered safe by one EU NAA should be deemed safe for operation in any other EU member state.

This could be achieved by one simple remedy: the introduction of an EU aircraft register. As EU legislation permits any airline based in a member state to fly its aircraft, registered in its home state, on commercial services in any other member state, there should be no barrier to creating a single register for all aircraft registered in EU states. Consequently, any EU operator would be able to fly any EU registered aircraft in any EU member state without the need for additional approvals and, in many cases, changes to aircraft or operating manuals.

6. Harmonisation of interpretation of European requirements for wet-leases and ACMI operations

NAAs in member states are interpreting the existing European rules in different ways, increasing administrative burdens for operators, particular those that specialise in providing these services.

7. Allowance of existing means of compliance

Individual NAAs have approved “acceptable means of compliance” (AMC) with existing EU Regulations, for example on means of ensuring the cockpit crew is secure in the event of an attempted hi-jacking. EASA is proposing that its own single interpretation will, in future, override existing AMCs.

8. Cost efficiency in EU air transport safety regulation and oversight

Overall charges to industry have increased since the formation of EASA due to duplication of activity. EASA should have led to efficiencies which should be reflected in an overall reduction of charges.

The basic EASA regulation in its revised version, EC Regulation No. 216/2008, defines, in Article 2 Para 2 c), as an additional objective of the regulation, "to promote cost efficiency in the regulatory and certification processes and to avoid duplication at national and European level". This aspect was also part of the basic EASA regulation in its initial version in EC Regulation 1592/2002. Actually, this was and is one of the main reasons for the establishment of EASA. If EASA assumes responsibilities in EU air transport safety regulation and oversight - a move that is fully supported by the European air transport industry - NAAs must be adjusted accordingly, i. e. they must be downsized. Otherwise, the objective of cost-efficiency cannot be achieved.

So far, and six years after adoption of EC Regulation 1592/2002, improved cost-efficiency in the regulatory and certification processes is not visible. The EU should investigate and take action to safeguard progress in cost-efficiency in the air transport safety administration. Ultimately, national aviation authorities should be completely integrated in a decentralized EASA structure.

EASA should develop a 'road map' that improves EASA's overall efficiency without degrading safety oversight by defining clearly:

- the respective roles, responsibilities and resource requirements of EASA and NAAs
- a requirement to examine all possible opportunities to achieve reduction in the aggregate cost of safety regulation, including economies of scale, use of best practice and integration of NAAs' systems and services across national boundaries, for example, by the delegation of tasks from EASA to specific NAAs
- performance and efficiency targets
- measures to ensure that safety requirements are interpreted and implemented in a consistent basis throughout EASA member states and measures to apply sanctions against NAAs that fail to meet this requirement.

9. Taxes

Some member states have chosen to introduce taxes on air travel. The revenue, in general, is used as general government income and is not hypothecated for use in transport or environmental projects.

The UK has recently considered a change to the basis for its air transport tax (Air Passenger Duty) which would have imposed significant administrative burdens on carriers. While the industry remains opposed to specific taxes which discriminate against air transport, any taxes which introduced must not impose significant administrative burdens.

10. Passengers' rights

DGTREN and DGSANCO should cooperate to ensure that airlines are faced with a single challenge to any breach of passenger rights in their published material. DGTREN and DGSANCO should also assist airlines to meet the complex set of legislation which encompasses at least four Regulations specific to air transport and seven Directives governing generic consumer rights.

At present DGTREN and DGSANCO have indicated that their role is to name, shame and punish airlines found to be in breach of legislation rather than to assist airlines to meet their obligations. This confrontational approach increases the administrative burdens on airlines that are inadvertently breaching current legislation. The airline industry also regrets that a published check-list, to be used by national authorities in order to assess compliance of ticket-selling websites with EU laws, was flawed. Only after a consultation with industry experts, mistakes were corrected. It is regretful that the industry was not consulted in the early stages of this "sweep" of websites by DGSANCO.

11. Price breakdown

EU Regulation 1008/2008 became effective in November 2008 and requires airlines to provide a breakdown of their prices where some elements have been added to the basic fare. A heavy-handed interpretation of this legislation, which is not required for any other goods or services industry, could place a significant administrative burden on airlines. In a market with free price-setting, such a rule seems redundant.

12. "Permit to fly" approval for aircraft outside normal functionality parameters

An operator occasionally needs to seek approval to fly an aircraft which potentiality is deemed unfit to fly under normal rules. This can arise, for example, when an operator wishes to transfer an aircraft with specific faults to its maintenance base at another airport. Until recently, the NAA was responsible for the approval decision. Currently both EASA and the relevant NAA can be involved in the approval process. A simpler process returning approval to a single body will reduce administrative burdens.

13. Introduction of a single EU air accident investigation bureau

The industry believes that air accident investigation would be performed more efficiently through a single EU body. However, this would need to be structured using existing people and expertise in member states, and should not be set up with its own newly recruited staff. The ability to pull experts together from across the EU to address an accident would achieve not only efficiency gains, but, more importantly, potentially lead to faster safety recommendations thus improving air safety.

14. EUROCONTROL consultations

EUROCONTROL continues to overwhelm stakeholders with voluminous consultation packages, without any numbering nor a clear link to the Single European Sky legislative package.

European legislation that is considered to be burdensome

This section relates to legislation that might be considered appropriate for amendment. However from past experience, the air transport industry is highly aware that it is difficult to achieve real overall savings through the process of co-decision. Hence there must be a focus on the cost of proposed changes to legislation at each stage of its development.

1. Inclusion of aviation in the European emissions trading scheme

As the Commission has designated a consultancy that, besides assisting the Commission in preparing the Guidelines for Monitoring, Reporting and Verification (MRV), also sells MRV assistance to airlines, this consultancy obviously has all interest in suggesting a high level of sophistication for these guidelines. This fact is proven that smaller airlines had a difficult access to the consultancy, whilst it consulted frequently and unofficially with larger airlines.

As a consequence, there is a serious risk that the legislation will impose some specific unnecessary burdens. For example, the proposed means of measuring CO₂ emissions is unnecessarily detailed and complex. It purports to measure the CO₂ generated on every individual flight. It is likely to produce a less reliable overall figure than one based on total fuel consumption as, in aviation, CO₂ production is currently directly proportional to the fuel consumed as all fuel is oil-based. Given that the science of climate change is relatively inexact, this spurious pursuit of accuracy is totally unjustified.

2. Rationalisation of air transport security legislation

European air transport security is governed by legislation, rules, policies and recommendations by ICAO, ECAC, EU, EASA, Eurocontrol and NAAs. The industry seeks a single source for the security legislation by which it is bound.

In addition, the implementation of one-stop security would make further checks of transfer pax and their luggage redundant. The revised EU Regulation 300/2008 even demands the acceptance of security standards of non-EU countries; either the European Commission decides that the measures taken by the third country correspond to EU standards or security standards are part of the respective air transport agreement. The current problems of the second-stage negotiations between the USA and the EU illustrate that the European Commission should take action and start investigations on the security standards of non-EU countries. Those actions could relieve passengers and reduce costs.

3. Measurement of cosmic radiation applicable to air crew

The amount of expected radiation allowable before individual monitoring is 1 mSv. This requires almost all operators to monitor each crew member individually. A limit of 2 mSv would significantly reduce the administrative burden without incurring any significant risk for crew.

4. Price breakdown

EU Regulation 1008/2008 became effective in November 2008 and requires airlines to provide a breakdown of their prices where some elements have been added to the basic fare. This administrative burden is not imposed on any provider of goods or services.

There has been no regulatory impact assessment of the costs and benefits of this specific piece of legislation which clearly creates administrative costs for airlines.

5. Handling passengers with reduced mobility and disabled passengers (PRMs)

The basic principles of EU Regulation 1107/2006 which require necessary services to be provided for PRMs at no additional cost are supported by the most elements of the air transport industry. However, the legislation has created a monopoly supplier – the airport company – without imposing any adequate cost controls. The monopoly supplier has the right to recharge full costs to airlines operating at the airport.

Airlines are faced with substantially varying costs across airports which relate more to the efficiency of the airport than to variations in standards. Where legislation creates a monopoly supplier, it is essential that there are adequate economic controls to ensure an efficient operation.

6. New burdens which EASA may impose

EASA proposes that alternative means of compliance, previously approved by NAAS and to which EASA has not objected, are fed into the EASA Rulemaking Programme instead of being published by the Commission within a month as per article 14 of the Basic Regulation 216/2008. This would stall the EASA Rulemaking process that suffers already from lack of resources and effective prioritization.

- EASA notice of proposed amendment (NPA) 2009-01 'Operational Suitability Certificate' which has recently been published by EASA for public consultation would create a significant

administrative burden on airlines, their MRO subsidiaries and airplane manufacturers for unproven flight safety benefits. For example, it would require that essential documents for operation of an airline go through two European approval processes. These approvals are not only applicable for new aircraft but also to all changes and modifications introduced by airlines in their fleet.

- The additional approval process defined by the EASA NPA 2009-1 is merely introduced to provide standardization of the Member States in their approval processes of their local airlines.
- EASA Cabin Crew Medical Requirements (EASA rulemaking proposals are due to be issued on 30th January 2009). These are likely to impose significant costs and administrative burdens on airlines for no demonstrable flight safety benefit
- EASA's proposal around crew flight time limitations (FTL - EU OPS Part Q) which lacks any supporting evidence.

7. Cargo

- The NCTS (New Computerised Transit System), ECS (Export Control System) and ICS (Import Control System) will all place significant extra administrative burden on trade. We already have experience in terms of both NCTS and ECS which requires additional administration. ICS (which will have to be implemented as from 1st January 2011) will require much more. The need to print accompanying documents in both NCTS (TAD & LOI) and ECS (EAD & LOI) is just one element that adds cost and extra administration. The ability to remove these documents would make significant savings.
- The additional administration required to support AEO status (Authorized Economic Operator) may also be considered as a burden on business, especially where there is a duplication of administration between different government agencies.
- The future removal of National and Trade simplifications will also result in additional administration in some cases; i.e. removal of air simplifications such as articles 793 (single transport contract) and 445 (level 2 air simplification) of Commission Regulation (EEC) No 2454/93 laying down the implementing provisions of the Community customs code.
- Council Regulation 1147/2002 "temporarily suspending the autonomous Common Customs Tariff duties on certain goods imported with airworthiness certificates": Extension of this Regulation to include Certificates of Conformity (CoCs) would significantly reduce administrative burden for airlines.

Future potential European legislation that may introduce additional burdens

This section relates to legislation that is under consideration. The purpose of including this section is to ensure that the regulatory process is improved so that if any of this legislation is subsequently implemented, it is done in a way which minimises administrative burdens.

The real focus must be to introduce effective comprehensive evaluations of new legislation and changes to existing legislation, so that the full implications, including the costs of administrative burdens, are known prior to the legislation being approved.

1. Introduction of tradable noise permits

DGTREN is supporting MIME, a project which is evaluating the impact of introducing tradable noise permits to replace existing noise-based constraints at airports.

2. Reporting passenger data to state authorities

DGJLS is examining whether airlines should be required to report passenger data for incoming aircraft to all EU member states.

It is essential that any such requirements are based on comprehensive cost-benefit studies which demonstrate genuine benefits that exceed their costs, and that full account is taken of existing systems in place in other states to minimise the burden of setting up new reporting systems.

The UK has established its e-borders system which requires excessive reporting. Despite requests from airlines and their trade associations, the UK government requires multiple items of data for each crew member each time they cross the UK border. The industry had requested a single transfer of this bulk data to the UK authorities, together with transmission of a unique single identifier for each crew member on board each flight. A similar system for regular travellers was also rejected. This results in the transmission by airlines each year of literally hundreds of millions of data items already known to the UK government.

As most airlines have already set up their systems to comply with this unnecessary reporting burden, any lessening of the burden at this stage will unfortunately incur further development costs. However, these costs might be outweighed by the ongoing costs of transmission. There should therefore be an evaluation of this proposed simplification.

3. EASA NPA on environmental protection

EASA has a competence for environmental protection and has issued an NPA as to how it might exercise this competence in the future. The NPA exhibits a disregard for the principles of “better regulation”.

4. Reducing Nitrogen Oxides (NOx) emissions from aircraft

Consultants acting for the Commission have concluded a study on possible measures to reduce NOX emissions. The consultants have concluded that “any policy instruments would either have very limited environmental impacts but a solid scientific foundation, or a questionable scientific basis but significant impact.”

Any development of legislative instruments in this area must be subject to rigorous cost benefit analysis, and must act to minimise any administrative burdens.

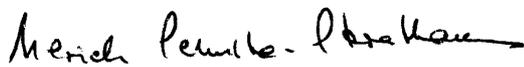
5. Allowance of existing acceptable means of compliance

Individual NAAs have approved “acceptable means of compliance” (AMC) with existing EU Regulations, for example on means of ensuring the cockpit crew is secure in the event of an attempted hi-jacking. EASA is proposing that its own single interpretation will, in future, override existing AMCs.

Conclusion

AEA, ERA and IACA thank the High Level Group of Independent Stakeholders on Administrative Burdens for the opportunity to input to this significant cost reduction initiative. We look forward to a high degree of cooperation over the coming months to ensure that this project produces real cost savings and does not become another “better regulation” project with high ideals but with few demonstrable improvements.

In particular, we will continue to work to identify projected cost savings for the industry. This has not been possible in the restricted timescale allowed for this initial response. Our initial forecast is that real action in the areas listed would result in cost savings for the industry in excess of € 100 million.



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29 January 2009