

Title: Public consultation on the impact assessment for a possible revision of Council Regulation (EEC) 95/93 on common rules for the allocation of slots at Community airports

Policy field: Airports

Target group: All stakeholders and organisations involved in air passenger transport are invited to respond to the public consultation. The Commission is equally interested in getting the views of citizens, national administrations and parliaments, the European Parliament and the Council, the Social and Economic Committee and the Committee of the Regions.

Consultation period: [3/09/2010 – 29/10/2010]

Fill out the questionnaire:

http://ec.europa.eu/transport/air/consultations/2010_10_25_regulation_95_93_ec_en.htm

Objectives of the consultation

The capacity of many of Europe's key airports is restricted. As a result of increasing demand for air transport and financial and environmental constraints on expanding airport capacity, the shortage of capacity at key European airports is likely to become more severe in the future.

Regulation (EEC) 95/93 established an administrative mechanism for the allocation of capacity at congested airports. The Regulation was aimed at ensuring non-discriminatory and transparent procedures for allocation of slots, and was partly based on the established framework of scheduling procedures that had been developed by the air transport industry. Member States designate congested airports as co-ordinated, and slot co-ordinators at each of these airports seek to balance the demand for slots with the supply. Where there is excess demand, the co-ordinators allocate slots on the basis of administrative criteria including, in particular, grandfather rights; where slots become available, in order to promote competition, preference is given to new entrants.

The Regulation was modified by Regulation (EC) 793/2004, which made a number of technical improvements, for example, to the processes for monitoring the correct use of slots and to the independent operation of the co-ordinator; it also introduced sanctions for abuse of slots. In addition, the 'use-it-or-lose-it' rule, which requires that a series of slots must be used 80% of the time to retain grandfather rights, has been suspended on several occasions, most recently due to the international economic crisis and subsequent downturn in traffic volumes.

The objective of this consultation is to evaluate the current operation of the Regulation, and to collect information to be used in an impact assessment of possible changes to it.

How to submit your contribution

The consultation is being launched only in electronic form via the interactive policy-making tool.

We welcome contributions from citizens, organisations and public authorities.

Received contributions will be published on the Internet. It is important to read the specific privacy statement attached to this consultation for information on how your personal data and contribution will be dealt with.

You are strongly advised to prepare your contribution in advance before filling-in the questionnaire online. We recommend you download the PDF file of the questionnaire, to allow you to draft your

answers to the open text questions carefully and check whether you have kept to the maximum number of characters (4,000 characters, which is about 50 lines for each open text field or roughly 1.5 pages of A4).

After preparing all your answers, please open the online questionnaire and fill it in. Begin with the closed questions and then copy and paste the answers you have drafted into the open text fields of the electronic questionnaire. You will have 90 minutes to fill in the complete electronic questionnaire and to submit it. After 90 minutes, the system will automatically close and you may lose any answers that have not yet been submitted.

Questions are either compulsory or optional. If any of the compulsory fields have not been filled in, the system will not allow you to submit the questionnaire but will redirect you to the incomplete answer and give you an opportunity to correct it. An error message will appear in a purple/red colour under the question in which a problem occurred.

Please note that you should not use the 'Back' button in the upper left-hand corner of the screen to navigate the online questionnaire, because this will lead to a loss of all the data that you have already inserted. For navigation, you should use the buttons 'Next' and 'Previous' at the bottom of the questionnaire page instead.

When you successfully submit the questionnaire, a confirmation message will appear on your screen and you can print your answers.

Although the consultation is open for 8 weeks, we would encourage stakeholders to respond as soon as possible.

Contributions may be submitted in any official EU language.

Please note that it is not useful to submit the same answers many times because what will be taken into account are the arguments, facts and figures that are submitted, not the number of times they are submitted.

Most questions ask about the impacts the policy options could have. In responding to these questions, please distinguish between the following impacts, and to the extent possible, please quantify expected impacts:

- any impacts on the number of slots for which services would actually be scheduled;
- any impacts on the proportion of slots for which services have been scheduled which are actually used;
- any impacts on the mix of traffic, such as the type of carrier (low cost, legacy or leisure carriers), the size or type of aircraft used, or the type of services (long/short haul);
- any impact on administrative costs;
- any impacts on competition; and
- any other impacts.

Contributions received in reply to the consultation will be handled by a consultant and used by the Commission services; the summary of the consultation's results will be published on the Commission's

website. If you do not wish your contribution to be made public, please indicate this in your reply. In that case, your reply will also not be mentioned in future documents that may refer to this consultation.

If you are replying on behalf of an organisation, please state your name, address and official title in your reply. Any reply on behalf of an organisation which does not state the interests which it represents or the extent to which it is representative of the sector (number of members, size of organisation in relation to the sector to which its members belong) will be regarded as an individual reply and not a collective reply.

Please note that this document has been drafted for information and consultation purposes only. It has not been adopted or in any way approved by the European Commission and should not be regarded as representative of the views of Commission staff. It does not in any way prejudge, or constitute the announcement of, any position on the part of the Commission on the issues covered.

The European Commission does not guarantee the accuracy of the information provided, nor does it accept responsibility for any use made thereof.

Online questionnaire

1. Respondent information

1.1 Identification

(1) I speak on behalf of (Compulsory – one answer only)

- a. myself
- b. an organisation

(1a and 1b) (Respondent only answers this question if he/she has ticked “organisation” in the question above. Compulsory question) Please can you identify which organisation you represent, and a contact email address?

Answer for organisation name: (Open-ended box)

Answer for email address: (Open-ended box)

(1c) (Respondent only answers this question if he/she has ticked “organisation” in the question above. Compulsory question) Please select the organisation type?

- (c) Airport or airports' association
- (d) Airline or airlines' association (scheduled airlines)
- (e) Airline or airlines' association (leisure airlines)
- (f) Airline or airlines' association (business or general aviation)
- (g) Slot coordinator or slot coordinators association
- (h) Freight operator
- (i) Air navigation service provider or other ATM industry stakeholder
- (j) National government
- (k) Regional or local government
- (l) Trade Union/Worker's organisation
- (m) Association/non-governmental organisation
- (n) Academic institution,
- (o) Other private company
- (p) Other

1.2 Views of the respondent

(2) **(Compulsory – one answer only)** Please can you confirm your agreement to having your views made public and/or attributed to your organisation when we summarise the results of the consultation.

Yes

No

1.3. Role and interest of the respondent

(3) **(Compulsory)** Please can you identify your role and interest in the potential revision of the Regulation on slot allocation? **(Open-ended box)**

If you are speaking on behalf of an organization:

As part of the European Transparency Initiative, organizations are invited to use the Register of interest representatives to provide the European Commission and the public at large with information about their objectives, funding and structures. If you are not registered yet in this register, please visit:

<https://webgate.ec.europa.eu/transparency/regrin/welcome.do?locale=en> .

2. Current functioning of the Regulation

It is important for this consultation to understand how well the Regulation currently functions, and whether stakeholders believe there are any problems at present with its implementation.

(4) How well do you believe the Regulation is currently functioning? What problems, if any, are there with its current operation? **(Open-ended box)**

In particular, the Commission is interested in whether the problems identified in its 2008 Communication¹ remain. The Communication identified a number of issues with the operation of the Regulation, including:

- there is insufficient application of the requirements in the Regulation regarding the functional and financial independence of coordinators in some Member States;
- there is insufficient transparency of information regarding historical, requested, allocated and available slots in some Member States;
- local guidelines may allow for better use of the existing slot portfolio but they must comply with EU law;
- the Commission would not pursue infringement proceedings against Member States where secondary trading took place in a transparent manner, as the Regulation is currently silent on the issue; and

¹ COM(2008) 227 final

- more action was required to ensure consistency between flight plans and slots.

(5) Do you agree with the issues raised in the Commission's 2008 Communication on the operation of the slot Regulation, and why? (Open-ended box)

The Commission believes that the limitations on availability of slots at many EU airports may hinder the ability of air carriers to expand or reshape their networks. These limitations may become more severe in the future, due to environmental and other restrictions on airport capacity expansion.

(6) How has the availability of slots influenced the ability of air carriers to expand or reshape their networks? (Open-ended box)

The Commission recognises that there have been significant changes in the aviation sector since the Regulation was developed and since it was last amended, such as the further development of low cost carriers, and the consolidation of network carriers. In particular, some stakeholders have reported that exchanges of slots increasingly take place within airline alliances.

(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. (Open-ended box)

3. Options for revision to the Regulation

Option B1: Strengthen the independence of the coordinators

The Regulation requires that slot coordinators should act in an independent manner and be functionally separated from any interested party (principally, the airport manager or the key air carrier(s) operating from the airport), and that the system of financing should be such as to guarantee the coordinators' independent status.

However, the Regulation does not specify in further detail how this independence should be achieved: for example, it is not specifically stated that the coordinator should keep separate accounts. In some Member States, the airport operator has been appointed as the coordinator. Some airlines consider that the coordinator is not sufficiently independent in some Member States. The Regulation could be strengthened to ensure the independence of the coordinator.

Option B1.1: Organisational separation of coordinator

(8.1) What measures have the Member States taken to ensure that coordinators are functionally separated from any single interested party? (Open-ended box)

(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. (Open-ended box)

Option B1.2: Keeping separate accounts

(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? (Open-ended box)

Option B1.3: Limits on adjacent activities

(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? (Open-ended box)

Option B2: Improve transparency of schedule data

Article 4(8) requires coordinators to make available, free of charge, information on the slots that have been requested and are allocated, historical allocations of slots, and the slots which are available. A database of slot allocations has been set up by the coordinators and most provide this information to the database. The Commission considers that transparency of slot and schedule data is essential and this could be improved if all States provided information schedule information (including the historic slot file) for placing on this database.

(11.1) What measures have the Member States taken to ensure that schedule data is fully transparent to interested parties? (Open-ended box)

(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? (Open-ended box)

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

Regulation (EC) 793/2004 introduced sanctions for deliberate abuse of slots, including giving the coordinator the right to withdraw slots if an air carrier repeatedly and intentionally operates services at times which are materially different from the allocated slot, or if the slot is used in a significantly different way. In contrast, there is no penalty for late handback of slots: a carrier that is allocated slots that it subsequently decides not to use (or never had any intention of using) has no incentive to hand these back to the pool in sufficient time for other air carriers, which might seek to compete with it, to plan services.

Option B3.1: Slot reservation fees

Slot reservation fees could be introduced, as an advanced payment of the airport charge. This would not be refundable if the carrier did not operate the service or if the slot was handed back too late to be allocated to another carrier. This would be offset by a reduction in airport charges so as to be financially neutral for airports.

(12.1) What would be the advantages and disadvantages of amending the Regulation to

introduce slot reservation fees? (Open-ended box)

(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. (Open-ended box)

Option B3.2: Penalties for late handback of slots

Penalties could be introduced if slots are handed back after the deadline. The penalty would take the form of a fine payable to the national authorities.

(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. (Open-ended box)

(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. (Open-ended box)

Option B3.3: Strengthen powers of coordinators

The coordinator already has the power to withdraw slots from carriers that repeatedly operate flights at a different time to the slot. However, this power could be strengthened to give the coordinators the right to penalise carriers that return slots late, for example by preventing the carrier from applying for other slots for a given period.

(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? (Open-ended box)

(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? (Open-ended box)

(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. (Open-ended box)

Option B4: Business and general aviation

It can be difficult for business aviation flights to obtain grandfather rights for slots at congested airports, and this might hamper the development of this market segment. These flights rarely operate to regular schedules and therefore it is not possible for operators to obtain historic preference. One way to address this would be by allowing business/general aviation to obtain historic preference on the basis of the total volume of business/general aviation flights, rather than on the basis of the operation of individual flights.

(15.1) What approach have coordinators taken to allocating slots for business aviation operators? (Open-ended box)

(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? (Open-ended box)

(15.3) Should the current definition of business aviation in the Regulation be changed or updated and if so, in what way? (Open-ended box)

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

Commission Regulation (EU) 255/2010 introduced various measures to ensure consistency between flight plans and airport slots. However, it does not give the central unit for air traffic flow management (CFMU) the power to refuse to accept the flight plans of flights that do not have appropriate airport slots i.e. that have no slot or are to be operated at a time significantly different from their slots

(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? (Open-ended box)

(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? (Open-ended box)

Option C1: Define the ownership of slots

Under the current Regulation, the ownership of slots is not explicitly defined. This option would seek to explicitly define the legal basis for slot ownership, as licences to use the public property, possibly with a time limitation.

(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? (Open-ended box)

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

The Regulation neither explicitly permits nor explicitly prohibits secondary trading in slots. As a result, in some Member States, a 'grey market' for secondary trading in slots has developed, on the basis of slot exchanges: a valuable peak hour slot is exchanged for a valueless slot late at night or early morning, and the exchange is accompanied by a monetary or other payment. Payments are not currently transparent but it has been reported that slots at some airports can exchange for substantial sums.

The Commission's 2008 Communication confirmed that it would not initiate infringement proceedings against States where secondary trading in slots took place, provided that these exchanges take place in a transparent manner. However, the result of this is that there are differences in procedures for slot allocation in different States. In addition, there are limitations to the current system of secondary trading: for example, carriers may be unwilling to transfer slots to carriers that may use them to compete with them. In addition, there is no transparency about the payments made for slots, and conditions attached to slot exchanges (for example that the slot be returned after a certain period).

This could be addressed by introducing an EU-wide regime for secondary trading, or measures to regulate secondary trading in slots.

C2.1: Introduce secondary trading at all EU airports

At present, the Regulation neither specifically permits nor prohibits secondary trading. The Regulation could be amended to state that secondary trading should be permitted at all EU airports.

(18.1) What impact has secondary trading had, in particular, on usage of slots, mix of services operated, and competition? (Open-ended box)

(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? (Open-ended box)

(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. (Open-ended box)

C2.2: Limit restrictive covenants

Carriers exchanging slots are not currently prohibited from imposing restrictions on how the slots are used, for example to restrict use of the slots by the acquiring carrier to compete with the carrier giving up the slots.

(19.1) What would be the advantages and disadvantages of amending the Regulation to prohibit the placing of restrictive covenants on slot transfers? (Open-ended box)

(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. (Open-ended box)

C2.3: Require post-trade transparency

Limited information is available on trades in slots or on slot leases. Whilst the fact that the slots have been exchanged may be transparent, it is not clear even to the coordinator or national regulatory authorities if the exchange has been accompanied by a payment or subject to any other conditions, or whether the exchange is permanent or a lease.

(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? (Open-ended box)

(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. (Open-ended box)

C2.4: Centralised auctions to exchange slots

A further issue with secondary trading is that incumbent carriers may be unwilling to exchange slots with carriers who might use the slots to launch services in competition with them. To address this, bilateral exchanges could be replaced with centralised auctions of slots that carriers' wished to give up. The auctions would be managed by the coordinator or some other independent body. The carrier releasing the slot would receive the payment from the highest bidder, but would not have any control over who received the slot or how it was used.

(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? (Open-ended box)

(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. (Open-ended box)

(21.3) Who should manage these auctions, and why? (Open-ended box)

C3: Two stage hybrid auction process for slot allocation

The current administrative process for slot allocation could be replaced with allocations through auctions. In order to address the practical difficulties that could arise as a result of the complexity of an auction system, and interactions with the airline scheduling system, it has been suggested that broad scheduling rights could be auctioned but that there would then be an administrative process for allocation of slots to the carriers that had obtained scheduling rights. This option could either be applied EU-wide, or left to the discretion of individual States; and could either be applied only to newly created slots and slots returned to the pool, or slots withdrawn from other carriers (the option of withdrawal of slots is addressed below – see C5).

(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? (Open-ended box)

(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. (Open-ended box)

(22.3) Where should the proceeds from such auctions be allocated? Please give reasons. (Open-ended box)

(22.4) If this was applied should it be EU-wide or left to the discretion of individual States? (Open-ended box)

C4: One stage auction process for slot allocation

The current administrative process for slot allocation could be replaced with allocations through various different types of auctions. This option could either be applied EU-wide, or left to the discretion of individual States; and could either be applied only to newly created slots and slots returned to the pool, or slots withdrawn from other carriers.

(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? (Open-ended box)

(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. (Open-ended box)

C5: Withdrawal of slots

Auctions would have more impact if they applied to slots withdrawn from carriers rather than if they were used for newly created slots, and slots returned to the pool, only. A proportion of slots could be withdrawn from carriers each year and would then be auctioned for a given period: for example, if 10% of slots were withdrawn each year, the slots would then be allocated for 10 years.

The case for withdrawal of slots may be stronger at the airports where market concentration is highest, and most slots are allocated through grandfather rights. Therefore, an alternative would be to limit withdrawal of slots to a small number of the most congested airports at which more than a certain percentage of the slots that are available are allocated through grandfather rights.

(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? (Open-ended box)

(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. (Open-ended box)

(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? (Open-ended box)

C6: Allow more flexibility for local rules

The current Regulation allows for local rules on slot allocation to be developed but the scope these rules can have is limited, as they must be consistent with the specific administrative criteria for slot allocation defined in the Regulation. These administrative criteria for local rules for slot allocation could be strengthened by policy criteria. These could include, for example, environmental and regional accessibility objectives as well as capacity goals.

This would allow the exact method of primary slot allocation to be decided at local level, for instance by an enlarged coordination committee (where regions could also be represented and have voting rights), which would be able to use local knowledge to select the most appropriate method for the particular airport.

(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? (Open-ended box)

C7: New entrant rule

The Regulation requires that 50% of slots be allocated to new entrants. In allocating these slots, priority is given to carriers with five or fewer slots per day at the airport concerned who wish to add services on routes which currently have limited competition or link the congested airport to a regional airport. New entrants cannot include carriers with more than 4% of slots at the airport or 5% of slots at an airport system.

However, it is unclear that a new entrant, as defined by the Regulation, is best placed to compete with a dominant incumbent. There is a risk that this rule may lead to a proliferation of air carriers with small numbers of services from an airport, which may over time either be taken over by, form a commercial alliance with, or trade their slots with the dominant incumbent, thereby further increasing its market power.

Allocation of slots to the second or third largest carriers at an airport, or carriers that are members of a different airline alliance to the dominant incumbent, might provide more effective competition. In addition, at the most congested airports, there is limited incentive to apply for pool slots on the basis of new entrant status, as these tend to be available at unattractive times only, or no series is available.

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

At present, in allocating slots to new entrants, priority is given to any carriers with five or fewer slots per day at the airport. This could be replaced with a higher number, or withdrawn, whilst keeping the basic principle that 50% of slots should be allocated to new entrants, which would then be defined as carriers with less than 4% of the slots at the airport or 5% at the airport system, launching services either on routes with limited competition or to regional airports to which no non-stop service exists.

(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? (Open-ended box)

(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? (Open-ended box)

(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. (Open-ended box)

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

An alternative approach would be to replace the new entrant rule with a rule giving priority to slot requests from carriers other than the dominant carrier and its partner or alliance carriers. The rule would only apply at airports where the dominant carrier and its partners had more than a certain proportion of slots at the airport (for example, 40%).

(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? (Open-ended box)

(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. (Open-ended box)

C8: Measures to improve slot utilisation

C8.1: Amend 80-20 rule

The Regulation states that air carriers will not be entitled to retain slots if they cannot demonstrate that they have used the slots at least 80% of the time, excluding specified cases of force majeure (the 'use it or lose it' rule). However, since cases of force majeure (such as closure of an airport or airspace) are excluded from the calculation of whether a slot has been used, the provision allowing a slot to be retained even if it has not been used 20% of the time may not be sufficient to ensure efficient utilisation of slots. This could, for example, be replaced with a rule requiring that a slot be used 90% of the time.

(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)? (Open-ended box)

(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? (Open-ended box)

(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. (Open-ended box)

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

At present a series of slots is defined as a minimum of 5 slots. This means that slots, and hence grandfather rights, may be obtained for air services that operate during 5 peak weeks only and (at congested airports) may prevent operation of other air services throughout the full season. This could be addressed by extending the minimum length of a series from 5, possibly on an airport-by-airport basis.

(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? (Open-ended box)

(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. (Open-ended box)

4. Single European Sky II

Regulation 1070/2009 (Single European Sky II) requires the Implementing Rules for the air traffic flow management function to take into account the need to monitor consistency between flight plans and airport slots. The Implementing Rules (Commission Regulation 255/2010) introduced a mechanism for data exchange between the coordinators and the flow management function (currently CFMU), and defined that the flow management function should report flight plans to the relevant slot coordinator where there is repeated operation of services at significantly different times from the allocated airport slot, and this causes prejudice to ATFM.

(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 any additional issues with slot allocation arising from SESII which we should be aware of? (Open-ended box)

5. Other issues to which you would like to draw our attention

We would welcome any information you are able to provide regarding any other issues with the application of the Regulation.

(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. (Open-ended box)

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