



Discussion Paper on the operation of Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators



Réseau du Sport de l'Air

Fédération Française des Collectionneurs et Constructeurs Amateurs d'Aéronef

European Commission
Directorate General for Energy and Transport
Internal Market, Aviation Agreements &
Multilateral Relations

DM 24 5/118
B-1049 Brussels.

Construire, Restaurer, Voler !

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Subject: Discussion Paper on the operation of Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators

Dear Sir,

We would like to thank the European Commission to give the opportunity to the operator to provide their view on the application of the Regulation (EC) 785/2004.

You will find attached our answers to the questionnaire.

The RSA is a French association grouping amateur built, historical and orphan aircraft. All those aircraft are part of Annex II of EC / ER 1592/2002.

The operators of those aircraft felt the impact of the regulation 785/2004 differently. We believe that was not the objective of the European Commission and it is time to reflect the level of insurance to the usage and operations of the aircraft.

Sincerely Yours

C.DARTOIS
La Présidente



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3 - Economic Impact of the Regulation on Aircraft Operators

a) Air Carrier

Q1: Has the Regulation had any impact on the insurance policy of air carriers?

Do air carriers just comply with the minimum insurance requirements or do air carriers carry insurance above the minimum insurance requirements?

No opinion

b) General aviation

Q2: What has been the economic impact of the Regulation on general aviation operators?

Due to the anticipation of the insurance company in France and the limitation accepted by the EC, the Regulation had no or very limited impact on general aviation when operating aircraft below 2.7 tonnes

c) Historic Aircraft

Q3: Does the insurance market provide reasonable cover for historic aircraft, taking into account the limited usage and relative low risk of third-party damage caused by such aircraft?

What could be a more appropriate and proportional insurance requirement for historic aircraft?

No. The current regulations impose minimum insurance requirements, which are far too high in relation to the potential risk from, and the performance of, most historic aircraft. The regulations do not allow insurers to tailor insurance premiums to the characteristics of historic aircraft use.

In fact, the impact of historical aircraft was tremendous and led to the grounding of major large historical aircraft. We believe that was not the objective of the European Commission and it is time to reflect the level of insurance to the usage and operations of the aircraft.

By basing requirements uniquely on MTOW, the current regulations ignore the lower power and thus speed of historic aircraft. It is important to draw a distinction between propeller driven historic types and those with jet engines. The potential damage done by a moving object is directly related to its energy, which is proportional to the mass and proportional to the square of the velocity. Modern jet engine transport aircraft have maximum operating speeds, which are two to three times those of piston-engine historic aircraft of the same weight. The energy, which is absorbed in an impact, is thus up to 9 times greater.

Historic aircraft operate relatively few hours per year, a range from 20 to 100 hours flying time per year is representative for historic types. The annual use of an individual commercial aircraft will be measured in thousands of hours.



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Historic aircraft operate generally in relation with events and shows held away from densely populated areas. Commercial transporters operate on routes specifically designed to take them as near as possible to densely populated areas.

A more appropriate base for insurance requirement would be to take into account the lower number of hours flown, the lower power and speed.

For historic aircraft flown less than 500 hours per year and with a total engine horsepower of less than 8000 hp, the requirements should be reduced to those in place before the introduction of Regulation 785/2004.

4. The Specific Issue of War-Risk Insurance

Q4: Is there still a need for the requirement for aircraft operators to have insurance cover for damage to third parties due to risks of war or terrorism in respect of non-commercial operations?

Statistic shows that damage to third parties due to risks of war or terrorism in respect of non-commercial operations is very rare and when such a case occurred the limited damage induced to third parties shown that such cover should be removed

For historic aircraft the low performance, special piloting skills required and conditions of operation with difficult public access to the planes themselves, make such aircraft a low risk for damage to third parties due to risks of war or terrorism in respect of non-commercial operations. The need for such cover on historic aircraft should be removed.

Q5: Is there a need to introduce specific rules for the insurance requirements for damage caused by unlawful interference while the aircraft is still at the airport in order to allow insurers better control over possible liability exposure?

Specific rules are not required for amateur built and historic aircraft, as they are not operated from commercial airports. This requirement if implemented should not apply to historic aircraft.

5. Implementation of the Regulation by Member States

a) Enforcement

Q6: Do air carriers licensed in third countries and aircraft operators using aircraft registered outside the EU usually deposit an insurance certificate or do they provide other documentation?

No opinion



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What kind of documentation other than a deposit of an insurance certificate is provided by air carriers and operators and accepted as evidence of compliance by Member States?

No opinion

Q7: Would there be benefits of creating a universal EU insurance certificate for air carriers and aircraft operators?

A universal EU insurance certificate should benefit to the operator to the condition that the same level of insurance coverage applies in all EU countries. Today, even with EC 785/2004 enforced, specific national application still exists.

The insurance valid for an historic aircraft in one member state should be equally valid in all member states without additional cost to the operator. Historic aircraft should be able to operate freely within members states in the same manner as historic cars and motor cycles.

b) Application to non-commercial operations by aircraft with a MTOM of less than 2,700 kg

Q8: Which insurance requirements apply in Member States for the passenger liability in respect of non-commercial operations by aircraft with a MTOM of less than 2,700 kg?

Do different insurance requirements in these cases cause problems for aircraft operators?

In France, the minimum required by EC regulations applies to amateur built and orphan aircraft. Historic aircraft are not allowed to carry passengers, regardless of MTOM. No specific problems cause by different insurance requirements when flying inside EU countries had been reported to us

6. Insurance and Liability

Q9: Have there been any problems with the application of Regulation 889/2002?

No opinion

Q10: Is there a need to harmonise third-party liability rules for Community air carriers for risks linked to war and terrorist acts?

No opinion

7. Competition between Community air carriers and third-country air carriers

Q11: Is the Regulation still necessary to ensure a level playing field with third country air carriers or would there be more effective alternatives, for example, in the context of Community aviation agreements with third countries?

No opinion



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8. Insurance and Passenger Protection

Q12: Would the insurance market be able to provide insurance coverage to air carriers in order to refund passengers for the sums paid and to cover the costs of repatriating passengers if the carrier is not able to operate the flight because of insolvency or revocation of its operating licence?

No opinion

Q13: Would additional insurance requirements be an appropriate instrument to protect passengers in such cases or are there other more effective and efficient means?

No opinion

9. Simplification

Q14: Is there scope for simplification of the Regulation?

As addressed in the Discussion Paper, the regulation was proposed at the time the market for aviation insurance had been seriously affected by the catastrophic events of 9/11. After 3 years ; it becomes appropriate to reduce the scope of such a regulation on general aviation.

Q15: Is it still seen necessary to have harmonised insurance requirements for non-commercial aircraft operators?

What would be the impact of exempting non-commercial aircraft operators from the scope of the Regulation?

Harmonised insurance requirements for non-commercial aircraft operators, in particular amateur built and historic aircraft are useful, but those requirements need to reflect the actual operating conditions of such aircraft and should not increase the cost of insurance to operators.

Exempting non commercial aircraft operators, in particular amateur built and historic aircraft from the regulation is liable to lead to distortions in the level of coverage required country by country and hinder the free operation of historic types across the community.