

DISCUSSION PAPER
On the operation of the Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators

Further to the consultation of the Directorate-General for Energy and Transport (DG TREN) on the operation of the Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators, these are the answers and the comments of the Fédération Française des Sociétés d'Assurances (FFSA).

These comments can be published on the Commission's website.

Q1 :

a) Yes, the regulation has had an impact on insurance policies, specifically for some non-EU carriers (mainly charter airlines). Some of them had even to cease business in the EU. It has also had an impact on War risk because the insurance aviation market does not cover Terrorist risk above the practical limit of 150 M USD or 105 M Euros. Excess coverage for terrorism exists and is provided by two US market insurers (AIG and Berkshire Hattaway).

b) US, EU carriers, plus major airlines ROW carry insurance above regulation limits.

Q2:

No minimum requirements existed in France prior to the implementation of regulation 785/2004 for GA, The regulation has brought about a significant increase in the price of insurance which is lower for small aircraft than for aircraft of four seats and above. French insurers think that a distinction between commercial GA and non-commercial GA would be of interest with regard to the establishment of limits.

Q3:

Yes, reasonable cover is provided for historic aircraft at a significantly reduced price. The only problem seems to be the insurance of large historic aircraft (such as B29 WW II bombers) to which high limits are applied. The solution could be to apply the same limit to all historic aircraft over a certain age.

Q4:

Terrorism and warlike operations shall not be considered as insurable but treated as "damage of war". French insurers suggest that specific insurance limits should be created for terrorism and war damage.

Q5

See answer to Q4. In addition, French insurers wish to advise that specific exclusions such as damage caused by weapons of mass destruction or asbestos are in place in aviation covers.

Q6:

As far as insurers are concerned, only insurance certificates are provided. Insurance certificates are always subject to policy terms, conditions and exclusions. Clarification as to whom is authorised to issue such certificate is needed, as well as for all EU and non-EU operations.

Q7:

Yes there would be benefits of creating a uniform EU certificate of insurance and French insurers would welcome the opportunity to discuss this subject with appropriate EU bodies.

Q8:

- a) France has implemented regulation art 6 subparagraph 1 (i.e. minimum insurance cover of 100K SDR) i.r.o. aircraft of less than 2700Kg, mtow used for non commercial operation only.
- b) This causes occasional problems with transnational border flights when another EU State has a larger minimum requirement.

Q9:

No answer

Q10:

Harmonisation of third party liability at Member State level is highly desirable. This is also the purpose of the modernisation of the Rome Convention of 1952 on compensation for damage caused by aircraft to third parties in case of unlawful interference. Insurers would like to be in a position to review the final draft of the convention before expressing their final answer.

Q11:

Not for insurers to answer.

Q12:

No, and French insurers wish to add that it would be against unsolvency laws to create, in some situations, a specific benefit for passengers to the detriment of other creditors.

Q13:

No, but other mechanisms could be more appropriate, such as “compensation guaranty funds”.

Q14:

Not for insurers to answer.

Q15:

- a) Yes , for reasons stated at answer to Q8b).
- b) Unknown