

Response by the UK Historic Aircraft to the Discussion Paper on the operation of Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators

Introduction

The Historic Aircraft Association was formed over 30 years ago here in the UK and has a membership comprising owners, operators, pilots, maintainers and insurers of vintage and heritage aircraft. Its aims are the well being of this important element of civil aviation and the continued existence of such aircraft in flying condition both privately and on the airshow circuit in the UK and elsewhere. This by a process of education and support to its members and others in the UK and abroad whose aviation interests come within this sector.

The council of the association is elected by the membership and includes many highly experienced individuals with decades of involvement in vintage and heritage aviation.

As an organisation we are active in the consultation process leading to new or revised aviation regulation affecting our interests with national bodies in the UK such as the Department for Transport and the Civil Aviation Authority. In addition we are members of the European Federation of Light, Experimental and Vintage Aircraft which, through Europe Air Sports, has a similar role with such organisations as EASA, Eurocontrol and the EU commission and parliament.

We have formal links to AOPA(UK), the Classic Jet Operators Association, the Vintage Aircraft Club, the Air Display Association (Europe), GASCo and the Royal Aero Club of the UK. We are also represented on the UK CAA General Aviation consultative committee and many CAA working groups.

Q1

Not being an air carrier engaged in CAT we cannot answer this question.

Q2

The imposition of this regulation has imposed significantly increased costs to some of our members. Many vintage and historic light aircraft owners in the UK have very low utilisation in terms of annual flying hours and the risk of an accident and subsequent third party damage or injury to any passenger is thus much reduced in comparison with an aircraft used for commercial air transport (CAT).

An airliner used in CAT may well have an annual utilisation of 2,000 hours but a rare historic aircraft perhaps only 20 hours. Thus the risk is 100 times greater for an aircraft in CAT yet the CAT operator has an insurance cost per hour 100 times less than that for the historic aircraft operator. This is demonstrably unfair and must be changed by some means.

Prior to the introduction of the EU insurance regulation there was no requirement in the UK to have any form of aviation insurance however the UK Civil Aviation Act placed “strict” liability on the operator of any aircraft for damage caused without proof of any negligence. Most responsible operators chose to take out third party insurance to cover a reasonable proportion of that “strict” liability. The actual amount of cover purchased was up to the individual operator to decide. Many had cover far less than that now needed under the present EU imposed regime.

During the consultation process prior to the introduction of EC 785/2004 the original proposals on insurance requirements were much reduced from the levels first proposed in terms of the requirements for light aircraft. This thanks to efforts made by general aviation organisations such as our own. Nevertheless the new regime has meant that many of our association members do less flying each year and are thus not in the same position as far as recency is concerned. This has detrimental safety implications which should be taken into consideration at this time. Their flying must be paid for out of a sum of disposable income that is relatively fixed so increased costs mean less flying is done.

It might well be thought that the prime beneficiary from the new EU aviation insurance regime has been the CAT industry at the expense of private aviation. This is absolutely unacceptable.

Q3

Perhaps the most unjust result of the new regulation was on the many relatively heavy historic aircraft on the airshow circuit in the UK and Europe. Such aircraft as the B17 Fortress, the B25 Mitchell, the PBY Catalina, the DC3 and many others including an increasing number of classic turbine engined aircraft. These aircraft have relatively low utilisation in terms of annual flying hours over which to amortise the huge increases in mandatory insurance cover premium now needed.

Many of these aircraft have a MTOM equivalent to those in commercial air transport yet fly but a fraction of the hours a CAT airliner might be expected to achieve. 2,000 hours is not unusual each year with an airliner yet a heritage machine used in airshows might only fly 20 hours a year. A factor of 100 in terms of the hourly cost of the insurance cover now needed. Additionally the CAT operator will immediately be able to pass on the additional cost to the passenger or freight customer. A heritage aircraft operator is not in that happy situation.

Air displays are said to have an attendance figure by the general public second only to football in terms of outdoor events. In terms of third party safety airshows have an excellent record. In the UK it is over 50 years since a spectator was killed at such a display. The UK CAA publishes CAP403 as guidance material for the regulation of air display activity in this country and such events require a legal permission to be granted.

Make no mistake, if airshows in Europe are to continue to be able to have the larger heritage aircraft flying in them it is absolutely essential that serious consideration be given to granting some form of alleviation for such aircraft in terms of the insurance requirements. Perhaps the creation of a special category for such aircraft might be an effective method of achieving this.

Certainly discussion is needed to determine how to classify a heritage aircraft since many of recent manufacture are certainly of heritage status. Our use of the term heritage also includes

those which might be considered historic by being manufactured prior to a certain date yet to be determined. Perhaps those constructed prior to 1960 might fall into that category since they are now approaching 50 years of age.

Q4

No

Q5

In our opinion such damage is the responsibility of the airport operator who is in the best position to prevent such unlawful interference while the aircraft is at the airport.

Q6

See our response to Q1 above.

Q7

We cannot give a definite answer however it would seem to be a good idea. No doubt the aviation insurance industry will have definite views on this from a practical angle due to the multiplicity of languages involved. For an airshow organiser the ability to inspect a document with a standard layout to confirm an operator has the required level of insurance cover must be a good thing though if it is written in Serbo-Croat there may be problems.

Q8

This information is available from the UK Department for Transport and we have no idea what is the position in other EU states.

Q9

We have no idea.

Q10 to Q13

We are not a community air carrier.

Q14

Yes.

Q15

In our opinion the answer is no. This because there were very few problems in reality with third party and passenger liability insurance cover levels prior to the introduction of the new regulation. The UK Civil Aviation Act imposition of "strict" liability on aircraft operators

has been in existence for very many years though how any operators chose to cover this was a matter for personal decision.

Most of the vintage, heritage and historic aircraft flying in the UK and Europe are of relatively low energy values in terms of MTOM and operating speeds. Thus they are unlikely to cause much in the way of third party damage in the event of an accident. Additionally in the UK many operate on the basis of a Permit to Fly where one of the conditions prohibits flight over congested areas - again minimising the risk

The increased costs associated with the premiums required under the new regulation have meant less flying being done by some of our membership and this has adverse safety implications.

Perhaps the ultimate safety benefit would be achieved in non-commercial operations if you were to increase the insurance cover needed to such a high level as to be totally unaffordable thus making us all stop flying. Aircraft on the ground - in hangars, museums or scrapped - rarely give rise to any danger at all. Many historic aircraft are now grounded forever in excellent museums across Europe or just mouldering away due to lack of funds to maintain them in a non-flying condition in other museums. Such a sad sight since an airframe seems to lose its soul in such circumstances.

Please do not try to achieve safety by these means.

We wish you well in your deliberations towards possible revision of EU Regulation 785/2004 which is long overdue.

The policy of leaving new EU regulation alone for a specified period prior to any re-evaluation of the impact, adverse or otherwise, has meant considerable financial hardship for many HAA members. It would be much appreciated if this could receive consideration towards a change.

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