AIR DISPLAY ASSOCIATION EUROPE

Pro-Forma letter of response to the Discussion Paper on EU Regulation 785/2004

To: TREN-CONSULTATION-INSURANCE@ec.europa.eu

Dear Sirs,

Please find these comments and representations put forward to you in response to the Discussion Paper on the operation of Regulation (EC) 785/2004 relating to insurance requirements.

The writer of these submissions is John Cairns the Head of Service of Farnborough International Ltd. This company is the operator of the Farnborough International Airshow. The Airshow is a combined Trade and Public Event organised on a Biennial basis and involves the participation of Prototype, Current and Classic airframes of all sizes.

There are 15 questions which have been raised in the Discussion Paper, which relates not only to operations such as ours, but also to Commercial Air Transport. Since we do not operate as an Air Transport undertaking, we have not considered it appropriate to respond to a number of the questions raised. We do not carry passengers for hire and reward nor valuable consideration, so although we have made some distinctions between those operations and our own, in the context of insurance requirements and impact, we leave certain of the questions to be responded to by those more qualified and affected than we are.

By way of general observations, which provide a background to our responses, we would wish to make and/or emphasise the following matters, many of which are set out in the Discussion Paper.

- The Aviation Insurance market is going through one of the "softest" periods it has ever known. As the Paper recites, this has resulted in a continued downward trend in premium levels for commercial aviation, which have fallen by up to 20% year on year, due to a combination of safer skies and increased competitiveness in the market. In sharp contrast, the premium levels for General Aviation (including the sector in which we operate) have, as a result of the Regulation's minimum requirements, been substantially increased.

- We consider that the General Aviation sector generally, and especially certain sub-sectors (such as Historic Aircraft) are seriously threatened by the impact of current insurance premium levels, and as the Paper suggests, is likely to result in the grounding of historic aircraft which are a vital part of the aviation heritage of States. The sharp contrast between commercial aviation and general aviation insurance premiums demonstrates an unfairness in the market, especially when accident and loss statistics in General Aviation have remained fairly constant.

- The principal reason for the extraordinarily high premium levels for general aviation is the requirement of the Regulation that operators should have cover for levels of third party risks far higher than before the Regulation was introduced. The establishment of those new levels of cover, while ending up much lower than those originally proposed, are still far higher than either statistics or experience indicate.

- There is similarly disproportionality between the relative Third party risks of, on the one hand, a large commercial air transport aircraft and, on the other hand, an historic or non-passenger carrying aircraft of equivalent weight. The factors giving rise to that differential relate (as the Paper states) to matters, such as comparative hours of utilisation, direct or special rules of operation and/or location of operation. In effect, the "broad brush" weight based approach to

the assessment of third party risks, is having an extremely damaging impact on the viability of General Aviation operations, and indirectly on safety.

We now address succinctly some of the questions raised in the Paper and provide our answers:

Question 1: Since we are not "air carriers" we make no response to this question.

Question 2: The Regulation has in a way made nonsense of the competitiveness in the Aviation Insurance market, from which commercial air transport has benefited. One is bound to ask why should general aviation not be able to benefit from that as well?

Question 3: The insurance market does provide reasonable cover for historic aircraft, but the minimum weight based limits required by the Regulation preclude insureds such as ourselves, from being able to benefit from discounts in premium attributable to limited usage of our aircraft and the relatively low risk of third party damage being caused by our aircraft. In other words we are unable, due to the high level of cover required, to benefit from "market forces".

Question 4: For all the reasons set out in the Paper, we do not consider that non-commercial aircraft operators still need war and terrorism risks to be covered, save in a few limited cases. In any event, where appropriate, financiers, and breach of warranty holders, will often stipulate, according to market and social conditions whether these risks should be included or not. The "market" therefore becomes self-regulating on this issue.

Question 5: The cover for unlawful interference at an airport should be a matter for airport operators and their insurers to decide.

Question 6: See response to Question 1 above.

Question 7: As far as air carriers are concerned we do not deal with this question. However, as aircraft operators, we can envisage administrative and financial implications in trying to introduce a universal EU insurance certificate. There is a wide diversity of operations in the general aviation area. It is considered that those operators who have a need to produce evidence of insurance in a particular country are better off dealing with that country in conjunction with their brokers. There has long been a practice whereby UK brokers supply insurance certificates in Spanish for those wishing to travel to that state. That concept can be applied similarly in the case of other States where the aircraft is to be operated. This issue is better dealt with on an individual and specific basis than to attempt universality throughout Europe – with the inevitable consequences that there will still be States (such as France) who individualise their requirements, out of step with every other State.

Question 8: As stated before, those operators intending to operate in different States should ascertain the requisite levels required for passenger liability as well as documentary evidence of compliance. In default, adoption of the minimum level of SDR 250,000 would appear to be a safe option. Unlike the concept of a universal Insurance Certificate, there is merit in harmonisation throughout Europe of levels of minimum passenger cover even for non-commercial operations. Apart from anything else, this would facilitate a more standard cover in insurance policies, rather than having different levels for different States.

Questions 9 – 13: We do not respond to these questions which relate to air carriers.

Questions

14 & 15: The Regulation itself is not complicated. The levels required, and the impact of general aviation, are however capable of improvement. Making exceptions and provisos will inevitably give rise to more complexity and less simplification – viz: special rules for historic aircraft. What in our view is required is a more realistic method of assessing the third party risk of damage by reference to statistics, experience, and advice from appropriate quarters. We strongly consider that the exclusion from the Regulation of both non-commercial aircraft under 2,700 kg, and historic, heritage, and other "special category" aircraft is essential, leaving those to be regulated by the National Aviation bodies, as they were before the Regulation. Of course those same National bodies are the ones who presently regulate aviation-based activities such as Air Displays, and who are best equipped to strike the balance between the amount of regulation necessary and the impact and cost of accidents giving rise to third party claims.

We trust that these representations will be of assistance to the Commission's deliberations. Should there be any need to contact us the details are as follows :