Response by the UK General Aviation Alliance to Discussion paper on the operation of Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators

Thank you for inviting stakeholder comment on the discussion paper on the operation of regulation (EC)785/2004. This is the response from the UK GA Alliance. The GA Alliance is a group of organisations representing, as far as possible, all UK General Aviation (GA), and Sports and Recreational Aviation interests (S&RA). The Alliance coordinates about 72,000 subscription-paying members of these bodies. It is estimated that in total more than 100,000 people are involved in GA in the UK. This covers parachuting, hang gliding, gliding, sport and recreational flying in light and microlight aircraft and helicopters. The objective of the GA Alliance is to co-operate and consult with government departments and other relevant organisations to support and progress these interests. Our response to the questions in your consultation document is as follows

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

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

In the UK, many operators of light aircraft did not carry passenger cover or third party cover at the levels specified in the Regulation so introduction of these measures resulted in increased costs for operators. The option to adopt the lower figure of 100000SDR per passenger for non commercial operations by aircraft <2700kg was implemented in the UK but the level of cover actually adopted by individual operators varies greatly. Whilst the premium increase for light aircraft was of concern at the time, market conditions have reduced costs and are now lower than in 2005. The minimum levels of third party and passenger cover are reasonable for category 1. However, in view of the very low historic third party risk from all light aircraft (see our answer 4 for details) we suggest that categories 1, 2 and 3 (in Article 7) could be merged and the minimum insurance of 0.75 million SDRs applied to the combined category to include all aircraft below 2700kg MTOM. The requirement for cover arising from acts of war or terrorism is seen as inappropriate for all aircraft in categories 1,2 or 3 given the nature of operation of light aircraft. This issue is also addressed in our response to Q4 below.

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?*

The insurance requirement for historic aircraft are largely untenable in relation to the income they can generate. Unless they can rely on individual benefactors for their substantial operating costs, this regulation will lead to the loss of this aviation heritage in the Community and we have already seen display programmes reduced as a result. The public wants to see these aircraft in the

air rather than as static museum pieces and we should provide an appropriate regulatory framework to permit this.

The insurance market bases its risk assessment on the regulation and MTOM whereas these aircraft are generally operated to conservative limits with only a minimum crew, no passengers and at much less than MTOM. We should reduce the regulatory insurance minima for these aircraft and encourage the insurance industry to take an appropriate risk-based view on premiums. The definition of historic aircraft could be delegated to NAAs as many are one-off examples. If it is necessary to include these aircraft within the regulatory structure, they should be placed in a lower category or their liability limited to a more appropriate figure. To take this forward needs consultation with a range of operators of such aircraft and we would be willing to take the lead in coordinating that if it would be helpful.

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?

We have reviewed third party death and injury data for UK registered light aircraft for the last 40 years and determined that there has only been only 1 fatal accident involving a light aircraft and 1 involving a microlight. Accidents involving any form of injury to third parties number 19 and 28 respectively. These very low figures suggest that light aircraft have a very limited capability to cause third party damage. This view is supported by the introduction in the UK of a sub-115Kg (BME) aircraft category, which is unregulated because it is judged incapable of causing significant third party damage. We therefore conclude that the requirement in Article 4 for third party cover to include 'acts of war, terrorism, hijacking, acts of sabotage, unlawful seizure of aircraft and civil commotion' is inappropriate in the case of light aircraft.

Whilst Article 2 gives alleviation from the requirement for aircraft with a MTOM of <500kg used for non commercial purposes we would recommend raising this limit to 2700kgs.

We also consider that the definition of non-commercial is more limiting than intended in the light aircraft sector. Many club or group-owned light aircraft are "hired" in the legal sense but they are essentially the same as privately owned aircraft and are operated in the same way. Many are also used for international flights on an irregular basis. In view of the foregoing, it should be possible to exempt all sub 2700 kg aircraft from this requirement without increasing risk.

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?

We cannot conceive of a circumstance when significant third party injury could result from unlawful interference with a light aircraft at an airfield. Therefore we conclude that there is no need to introduce a rule relating to light aircraft used for non-commercial purposes or otherwise.

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

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?

There would be no direct benefit for the light aircraft community in the EU but we would support an EU certificate provided there was no associated cost burden.

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?*

The lower figure of 100000SDR per passenger for non commercial operations by aircraft <2700kg has been adopted in the UK .

We are not aware of specific problems for operation of light aircraft used in non commercial or other operations caused by variable adoption of this lower limit by member states.

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

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

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

Q14: Is there scope for simplification of the Regulation?

NO OPINION

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?*

Where harmonised insurance requirements are proportionate to the nature of operations under consideration they are reasonable. However, as with many aviation regulatory matters, they were conceived to address issues within commercial aviation but were applied across all sectors. Whilst this has led to inappropriate requirements on light aviation as discussed earlier, it has removed a barrier to cross border movement of light aircraft. Thus harmonised requirements are useful but need to be appropriate to circumstances.

For GA Alliance

Facilitator GA Alliance
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