

Italian national procedure for the allocation of limited air traffic rights

(2008/C 19/07)

In accordance with Article 6 of Regulation (EC) No 847/2004 of the European Parliament and of the Council on the negotiation and implementation of air service agreements between Member States and third countries, the European Commission publishes the following national procedure for the distribution of air traffic rights among eligible Community carriers where these rights are limited under air service agreements with third countries.

‘The Minister for Transport**Official guidelines for the award of air services for destinations outside the European Union in response to applications from airlines**

Having regard to Community Regulation (EC) No 847/2004 of 29 April 2004 regarding the negotiation and implementation of air service agreements between Member States and third countries;

Having regard to the observations of the European Commission concerning the need to amend the Directive of the Minister for Transport of 7 July 2000 concerning official guidelines for the award of air services to destinations outside the European Union in response to applications from airlines;

Whereas traffic rights will always need to be allocated;

Whereas traffic rights for air connections governed by traffic agreements with third countries need to be awarded according to objective and transparent criteria in the interests of user and of the air transport industry;

Whereas all relevant information should be available on line to Community air carriers,

hereby issues

these official Guidelines for the award of air services in response to applications from airlines, which repeal and replace the Directive of 7 July 2000.

These Guidelines, the consultation programme foreseen, traffic rights as a whole and the relevant allocation procedures shall be available on line to all Community air carriers; allocation procedures shall be applied according to non-discriminatory criteria on the basis of the following parameters:

1. General objectives:

- (a) development of commercial and tourist trade;
- (b) promotion of the air transport industry and of civil aviation in general;
- (c) multiplicity of air carriers;
- (d) development of the airport system.

2. Reference framework:

- (a) consistency with the structure and general composition of services provided by the air transport industry;
- (b) operability of routes in relation to interconnections between the various traffic agreements and to a real development potential that can be reasonably expected;
- (c) possibility of integrating existing connections with further potential routes, on the basis of the expected trends in international travel.

3. General criteria applying to airlines in relation to their applications:

- (a) financial capacity;
- (b) technical capacity;
- (c) organisational capacity, to be assessed on the basis of:
 - 1. corporate mission;
 - 2. existing or planned commercial network;
 - 3. business plan.

4. Eligible persons

All the persons with a legitimate interest shall be entitled to receive information, express their interests and submit queries, which should be examined in a fair and non-discriminatory way.

5. Specific route criteria (quality of service proposed by applicants), to be assessed on the basis of the following:

- (a) benefits for consumers and promotion of market competitiveness;
- (b) direct operation by the carrier;
- (c) duration (year-season-part season);
- (d) level of use of existing traffic rights, in terms of:
 - 1. points of departure and destination and capacity;
- (e) frequency and distribution;
- (f) operation of a route ensuring the broadest coverage of national territory with air services from/to third countries;
- (g) description of service (airport of departure and destination, non-stop, direct with intermediate stop-over(s), other stopover(s), change of aircraft);
- (h) present network and connections planned, either directly performed or by other airlines;
- (i) type of aircraft;
- (j) categories of service provided;
- (k) fares broken down by season (high, low and intermediate); sales systems open to users;
- (l) indication of immediate and actual availability of aircraft or of purchase/financing arrangements;
- (m) date of commencement of services;
- (n) indirect operation (operating arrangements, commercial risk, specific contractual arrangements on the route);
- (o) any services or operations already being performed on the route (scheduled and/or charter and/or by means of code-sharing, franchising, wet lease).

6. Decisions

All decisions shall be adopted not later than 60 days following the last day of the period for the submission of applications.

7. Safeguards:

- (a) application of the “use-or-lose-it” principle in the event of non-commencement, delayed commencement or suspension of the service for reasons, other than *force majeure*, which are recognised by the authorities on their own initiative or at the request of other interested parties;
- (b) possibility of suspension or revocation for failure to meet set standards;
- (c) prohibition on transferring concessions without the awarding authority’s prior authorisation.

Non-commencement, delayed commencement and interruption of service for an entire traffic season will be judged negatively when assessing the subsequent allocation of other routes.

This Directive shall be sent to the competent control bodies for approval and registration.

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