

Opinion on the proposal for a Council Regulation (EEC) on common rules for the allocation of slots at Community airports⁽¹⁾

(91/C 339/11)

On 11 February 1991 the Council decided to consult the Economic and Social Committee, under Article 84(2) of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 3 September 1991. The Rapporteur was Mr Tukker.

At its 289th plenary session (meeting of 25 September 1991) the Economic and Social Committee adopted the following Opinion by 65 votes for, 14 against, with 24 abstentions.

1. General comments

1.1. The European Commission's proposal for the allocation of slots at Community airports gives rise to the following comments.

1.1.1. Contrary to what is suggested in the proposal, the number of airports facing problems of congestion is still small, although admittedly the airports concerned are important ones.

The problems, which result from capacity shortfalls, are appropriately dealt with by the 'industry guidelines' at the airports concerned. This is admitted by the Commission in its proposal.

Although these 'guidelines' have no legal status, they are accepted as adequate both by governments and by airlines.

1.2. The question therefore arises as to why the Commission has brought out this proposal. The airlines will undoubtedly argue for a fundamental discussion of the grounds for the Commission proposal; all the more so since the Commission, in discussions with users and their organizations, has already been told that people are in general satisfied with the present system. The main questions deserving attention are:

- How large is the real shortfall in capacity, and what influence does this have on competition?
- What criteria do we use to assess competition?
- In the allocation of slots, is it wise to involve parties other than those who have a direct interest in neutral slot allocation?

2. How large is the real shortfall in capacity, and what influence does this have on competition?

2.1. The airports which are at present full are London (Heathrow and Gatwick), Munich, Düsseldorf, Frankfurt and Milan (Linate). The Community has declared in connection with a number of measures that the Member States are free to distribute the traffic within an airport system. On the basis of this EC policy, London (Heathrow and Gatwick) and Milan (Linate) would no longer count as congested destinations since London (Stansted) and Malpensa/Bergamo have sufficient capacity. Düsseldorf has not yet reached its technical capacity and could be further extended, so that only Frankfurt and Munich would be a real problem at the moment (Munich's second airport is in any case almost ready). A number of other airports could also expand their capacity. However, the situation at London Heathrow is particularly acute as the great majority of airlines wish to use this airport in preference to London Gatwick or London Stansted because of its vastly superior interline connections.

In some cases capacity is restricted by factors other than technical ones, e.g. bans on night flying, and other restrictions to prevent noise.

The Commission's view that the present situation in the major airports could lead to paralysis of the system is not in the view of the Committee justified by the facts.

3. What criteria do we use to assess competition?

3.1. For the sake of convenience, the Commission assumes in its proposal that competition is enhanced if a new entrant appears on a route where there are two or fewer operators. A company which has more than six slots at one airport might have to give up slots in order to make such new access possible. It is perhaps

⁽¹⁾ OJ No C 43, 19. 2. 1991, p. 3.

interesting to note in this context that in the USA a company with only six slots can assert its right to 'new entrant status'. The two (or fewer) operators approach is unrealistic, since many other factors can influence competition on a route, e.g. alternatives using indirect routes in the case of somewhat longer distances, other modes of transport on shorter distances, the proportion of charters and the composition of transport on the route (whether it is mainly interline traffic, local business traffic or holiday traffic). In certain circumstances the Commission itself recognizes that a company starting to operate on a thinly used route may be allowed a few years' protection: how does this policy square with the 'Code of Conduct'?

3.2. The Commission completely ignores the position of a company which has its home base at a congested airport; the special circumstances of such a company must be carefully assessed in the allocation or any redistribution of slots.

3.3. In the view of the Committee the Commission's approach to competition is very one-sided. It is not a question of competition on each route, but above all of competition between the networks of the different companies and competition which takes place via the different airports. Even the existing companies, as a result of the progressive liberalization, make a large contribution to competition.

3.4. One specific problem is that British Airways, when they ended their Dublin service, kept the relevant 19 slots at Heathrow, with the result that neither Aer Lingus nor other airlines can expand their services between Dublin and Heathrow. This is because slots are not linked with particular routes, but can be used by the relevant companies for other services in their network.

3.5. The Committee can on no account agree with the sale or trading of slots which become available or are discarded by an airline. Slots which are no longer used should revert to the 'pool' controlled by the coordinator or airport authority.

3.6. The financial results of European carriers are likely to be disappointing in the coming years, and there seems to be no justification for interfering with the companies' networks. The structure of the networks is a matter for the airlines themselves to decide.

3.7. In the light of the above, the Committee wonders whether it is desirable for the Commission to submit a proposal on the problem of slot allocation. In practice,

such problems are settled satisfactorily by the relevant bodies. Should not the principle of subsidiarity be applied in this case?

3.8. *Neutral slot allocation*

The Commission proposes that airport coordinators should be appointed by and solely answerable to Government. Bearing in mind the principle of subsidiarity, the Committee would prefer the appointments to be made by all airlines having an interest in the use of the airport after thorough consultation with airport authorities, other users and governments, and with their agreement. Coordinators would be responsible for applying the allocation criteria set out in the Regulation and its annex.

4. *Specific comments*

4.1. *Reallocation of slots*

4.1.1. The Committee accepts that provision must be made for new entrants to have access to desirable slots, on a non-discriminatory basis, but has reservations about the proposed method of compulsory reallocation which could operate in an arbitrary fashion. Further, the Committee suggests that every effort should be made to increase the supply of slots by:

- the addition of new slots to the pool through expansion of airport capacity,
- improvements in air traffic control,
- improvements to the access/clearing infrastructure of new airports, so that they become a more attractive alternative.

4.1.2. In special cases, governments should be able to make available more than 50% of available slots to a newcomer (*cf.* the recent development on the London/Dublin route referred to in point 3.4).

4.1.3. The Committee feels that the following basic principles should underlie the code of conduct for slot allocation, and would suggest that these could be included as part of the Annex to the Regulation:

- policies for slot allocation should foster the efficient use of airports,

— there should be not built-in presumption that an existing slot can be retained indefinitely. To retain use of a slot even in the short term, airlines must demonstrate that they are using it effectively.

4.2. Throughout the Commission proposal mention is made of Member States or their governments, whereas most airports are private law entities incorporated under private law. It would be better to replace 'Member States' with 'Airport Authorities' or 'Member States and/or Airport Authorities'.

4.3. The policy should also take account of the interest of all aircraft operators.

5. Comments on individual Articles

Article 2(c)

After the word 'where' add 'under normal conditions'.

Article 4(2)

After the word 'congestion' add 'under normal conditions'.

Article 6(1)

In the first paragraph add after the words 'at least be open' the words 'to the home-carrier and'.

Article 9(1)

Question: is a carrier ending its services to and from a certain airport obliged to give up the 'slots' concerned or is it entitled to keep them even if it does not use them? The Commission's answer is that it is not entitled to keep them.

Article 9(2)

If an airline uses a slot less than 65 % of the allocated period, will 100 % or 35 % of the slot be withdrawn?

Article 9(4)(a)

What about allocating new entrants slots at other airports within an airport-system?

Last sentence: if slots are reclaimed from services which are operated with aircraft of less than 200 seats, how does the Commission intend to keep up the regional services and the important 'feeder-services' to major airports?

Article 9(7)

The Committee wonders whether three hours is not too long a period, given the importance to travellers of the timing of departures at the beginning and end of the business day. This point also applies to Article 10(1).

Article 9(10)

Last sentence: delete 'within a period of one month'.

Article 10(1)

Why does the article apply only to Community air-carriers and not to all air-carriers?

Article 10(7)

Last sentence: delete 'within a period of one month'.

Article 11

Why may EC-countries discriminate and third countries not?

Article 11(4)

Last sentence: delete 'within a period of one month'.

Appendix/point 1

The Committee is of the opinion that slot allocation is of particular importance not only to aircraft operators but also to the travelling public.

6. Conclusion

The question remains whether the Commission is correct in proposing to replace with a Regulation a system which works well. Should the Commission still wish to do this, and should the European Parliament and the Council of Ministers adopt the Regulation, then the Committee would ask the Commission to avoid discrimination against third countries. The airlines in the European Community would not be well served by measures which had a 'boomerang effect, elsewhere in the world.

Moreover, the Committee does not feel that it is necessary for airport coordinators to be appointed directly by the Member States and answerable only to them, but it does support the concept of neutrality and transparency in slot allocation and believes that Member

States should be required to ensure the appointment of neutral coordinators.

Know-how and impartiality are of the utmost importance for this task.

Done at Brussels, 25 September 1991.

The Chairman
of the Economic and Social Committee
François STAEDLIN

Opinion on EC relations with the countries of Central and Eastern Europe

(91/C 339/12)

On 24 April 1990 the Economic and Social Committee, acting under the third paragraph of Article 20 of the Rules of Procedure, decided to draw up an additional Opinion on EC relations with the countries of Central and Eastern Europe.

The Committee's comments on the Community's continuing association negotiations with Czechoslovakia, Poland and Hungary essentially relate to the position in mid-June 1991. The Committee reserves the right to comment separately on the most recent developments in Eastern Europe, with particular reference to the Baltic States and the USSR, and to make changes, where necessary, to individual passages of the present Opinion.

The Section for External Relations, Trade and Development Policy, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 12 September 1991. The Rapporteur was Mr Petersen.

At its 289th plenary session (meeting of 26 September 1991) the Economic and Social Committee adopted the following Opinion unanimously.

INTRODUCTORY COMMENTS

Given the length of this Opinion the Committee believes that it would be appropriate to begin by summarizing its most important views and recommendations on the European Agreements.

The Committee thinks it imperative to use the present historic opportunity to establish closer, more stable relations with the countries of Central and Eastern Europe and to lay the foundations of a Common European House for all European countries.

The Committee considers that top priority should go to removing economic and social imbalances between the Western and Eastern halves of Europe.

The Committee considers that existing trade and cooperation agreements are a possible means of strengthening inter-State dialogue; they are also likely to provide an economic underpinning for the political reforms now under way in Eastern Europe.

The Committee welcomes the idea of Association since it is calculated to secure and promote closer political, economic and social relations between the European Community and its Eastern neighbours.

The Association Agreements (European Agreements) also form an institutional framework for political dia-