

Fraport AG, Policy Paper on:

The draft amendment to the EU-Council's Regulation EWG No.95/93 on joint regulations for the allocation of time slots at EU airports

The position of Fraport AG - Frankfurt Airport Services Worldwide - on the Council's draft amendment of June 2001 to Regulation (EWG) Nr.95/93, the EU Parliament's report of June 2002 on the first reading and the comment of the EU Commission to the results of the first reading of the EP.

In comparison with the draft amendment of Summer 2000, which was dominated by the aims of policies concerning competition, this draft focuses to a greater extent on technicalities and on the regulation of procedures. Contrary to the Commission's initial announcement, this draft also contains some proposed amendments relating to competition. In spite of this we consider the chances for the successful implementation of this draft to be considerably higher than in 2000, not least because we feel that the direct impact of this draft on the airline and airport industry may be viewed as less critical. With this draft the Commission is not introducing a basic renewal of current slot allocation procedures.

Our detailed comments on the draft are as follows:

Slot Definition

- As before, we consider the role assigned to the airports in the slot allocation procedure to be in no way satisfactory and unacceptable in the long run. One reason for this is the newly introduced definition of slots. Slots are described according to this draft as *"the authorization of an airline to use the airport infrastructure of a co-ordinated airport for landing or take-off"*. The Commission makes it clear by this that slots are not the property of the airlines. It does not however state explicitly that the airports may be considered as the owners. We consider it correct to refer to the regulations for use of the airport in question.

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Seite
2

Airport and Airway Slots

- A distinction must always be drawn between “airport slots“ or “ground slots“ (slots which depend on the capacity of the airport infrastructure) and “airway slots“. Through their investments on the ground, the airports provide infrastructure which allows the airlines to land or take off. The airport slots are thus the airports’ prime and most important economic asset and are therefore their property. The DFS (German Navigation Services), on the other hand, is in our opinion the owner of the “airway slots”.

It seems important to us that there should in future be close co-ordination between the two kinds of slot in order to avoid inefficiency in the system. Although allocated “airport slots” are planned allocations, they have priority over the airway slots and must be adhered to by the airlines in their flight schedules. Until the day of the air movement all plans are made on the basis of the “airport slot”. This is a binding basis for all concerned. “Airway slots” are allocated according to current air space capacity and should correspond to the “airport slots”.

Revenue from slot marketing

- As the owner or licensor of airport slots the airport should be the main beneficiary - if there is one - of financial revenue from the sale or allocation of a concession. However, we do not think that the sale of slots or the allocation of concessions should serve to increase the “normal” revenues of the airport. We could envisage a reciprocal system in which airports undertake to use their income from the sale or granting of concessions - depending on the situation - specifically for the reduction of infrastructural capacity bottlenecks. Through the creation of additional capacity the money spent on slots would then benefit the airlines.

The role of the airports

- In our opinion this draft also fails to do justice to the actual position of the airports in the allocation process. Some airports are already publicly quoted companies and thus have a responsibility towards their investors. This means they must focus more sharply on profit creation and value growth. At the same time they are exposed to increasing international competition among themselves and price pressure from airlines and airline alliances.

This “identity” is in crass contrast to their contribution to and influence on the slot allocation process. Now, as in the past, airports cannot decide

independently or even in a joint decision process about their prime asset. Airports do not play (and have never played) a decisive part in the slot allocation process.

For the future we demand an active and responsible role for the airports in the allocation process. Airports have a high degree of expertise in operations and planning which would enable them to efficiently implement the slot allocation procedure best suited to the circumstances. The legislator could, for example, grant the airports a veto right/right of co-determination in the allocation procedure, in any future slot trading procedure or the right to propose and pass local rules. Airports could then be subject to a kind of obligation to prove that a particular slot allocation was not in the interests of optimum capacity utilization at the airport.

Efficient capacity utilization

- The prime aim of any amendment of the Regulation on Slots should be a better and more efficient utilization of existing, limited airport resources and capacities, thereby creating added value for the airlines, airports and passengers.

The EU Commission responded to this demand of the airports by including an allocation criteria "minimum aircraft size" and incorporating it into its amendment in a way which we find meaningful. The Commission's proposal gave each individual member state the possibility of making the allocation of slots (by the airport co-ordinator) dependent on minimum aircraft size. Unfortunately, the EU Parliament does not share this view and prefers to postpone this aspect to the second amendment level. The Commission then suggested an allocation criterion (or restriction) based on environmental criteria. Fraport AG can agree to this proposal provided that assurances are provided that its aim is improved capacity utilization.

We also believe that the local co-ordination committee should be empowered to develop and propose local "binding rules" and not only "recommending guidelines". The airport co-ordinator would then be bound by these when making allocations provided that the result was the efficient use of airport capacity.

We are also basically in favour of the criterion suggested by the EU Commission according to which the airport co-ordinator (based on the instructions of the member state in question), could make allocation dependent on the availability of satisfactory services by other transport providers. We feel this to be a good approach from the point of view of the intermodal networking of rail and air. We would like to refer here to our "AirRail" pilot, a ICE route (high speed rail link) between Frankfurt and

Stuttgart. Further extensions of the ICE network like the linking of Frankfurt Airport to Cologne main train station (and in 2003 to Düsseldorf) have made it possible to offer satisfactory alternate means of travel. But we must ask ourselves here whether it is one of the duties of the airport co-ordinator to judge the existence or non-existence of acceptable alternatives.

New Entrant Definition

- We question the extent to which the new and extended definition of “new entrant” status is suited to the creation of greater competition and will thus benefit the consumer. In its comment of this point ACI EUROPE makes it clear in advance that an “effective competition rule” would be more suitable than “new entrant status”. The aim of this rule would be to create effective competition on certain routes dominated by individual airlines. This would give established, financially stable carriers better access to competition on certain markets, which would certainly be more beneficial to the consumer than the emergence of so-called “no names”, carriers which often have only a short life and frequently close new routes again.

The extended “new entrant” rule gives priority allocation rights for all regional routes not yet flown. From the point of view of the efficient use of limited resources we do not find this very far-reaching rule ideal. In addition to capacity questions we also see the problem that Frankfurt Airport, for example, would not be able to put its resources to the best commercial use as we know that regional routes often make use of small aircraft, are not well frequented and thus block slots of established carriers against competitors.

Sanctions in cases of slot misuse

- We believe that the extension of the powers of the airport co-ordinator to impose sanctions and the powers of the member states where slot abuse has been discovered (immediate withdrawal of slot after a single warning), thus providing a means of acting more quickly and effectively, is an excellent move towards efficient capacity utilization. Rapid and effective action must be taken against slot misuse. Existing sanctions and procedures (such as through the LBA (German Federal Aviation Office)) have not proved effective. Only the actual immediate withdrawal of a slot can deter airlines from misuse.

Slot transfer / slot trading

- It emerges clearly from the draft Regulation that only the transfers and exchanges regulated in the Regulation are permissible. Any other form of slot transfer, including the leasing or sale between airlines with or without financial compensation, is forbidden.

We believe, however, that under certain conditions a secondary trade in slots between airlines should be permitted and introduced. Only transparent, official secondary trading can prevent airlines from permanently retaining unused slots and hoarding them for future use. In our opinion greater flexibility would encourage the more efficient use of limited capacities. Unofficial trading in slots has taken place in recent years, a ban would merely ignore reality and encourage this grey market. We therefore support the legalization and introduction of secondary trade in slots on condition that the airports are “actively” involved in this procedure and that it is conducted in a fair and transparent manner.

The role of the airport co-ordinator

- We regard the desired improvement of the independent role of the airport co-ordinator - not only “de jure” but also “de facto” - as a guarantee of his neutrality to be an essential pre-condition for the allocation procedure. The question of the financial burden of the airport co-ordinator must not be allowed to lead to any individual airline exerting an influence on his work.

The rights and duties of slot usage

- As we see it, slots (and thus the allocation of slots) give airlines not only the right to use the airport infrastructure, but also a duty to use it. In order to ensure an effective utilization of capacity for the benefit of all we believe it is essential for airlines to undertake to use the slots which they have applied for and which have been allocated to them. Appropriate sanction procedures must be created to ensure this.

This applies particularly with respect to the 80/20 rule. This rule makes it easier to once again obtain (be allocated) slots already allocated to an airline and used in the previous season. But this rule must not lead to airlines establishing for themselves the right to 20% non-usage of their allocated slots.

Datum

20.09.2002

Seite

6

Conclusion

In conclusion it may be stated that we are basically in agreement with the existing draft amendment to the Regulation on Slots (EWG) No. 95/93 and the comments of the EU Parliament and the EU Commission. We feel that the draft contains no radical proposals for change and that its impact on airports and air transport may be seen in general as uncritical.

On the other hand we do not regard the draft in its presently negotiated form as a suitable means of regulating the slot allocation procedure - and thus the problem of scarce and limited resources - in a way substantially more likely to improve capacity utilization than before. This can only be done through a radical re-orientation and amendment of the Slot Regulation. Greater attention must be paid to the central role of the airports who must be given a more active and responsible part in the allocation procedure. In our opinion this can only be done through a comprehensive change of approach.

Yours sincerely,

Fraport AG
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