

Whatever happened to Better Airports

Presentation to the ERA Industry Affairs Group

23 – 24 March 2015


Better Airports

- 1st December 2011 – launch of ‘Better Airports’ package covering slots, ground handling and noise
- ‘Measures to address capacity shortage at Europe's airports and improve the quality of services offered to passengers’
- Package heavily criticised
- Commission Work Programme 2015:
 - Ground handling proposal: no foreseeable agreement
 - Slots: not indicated
 - Noise: Regulation adopted in 2014

Scope of the presentation

- Positive elements of 'Better Airports'
- Distortions due to different interpretation and implementation of certain rules
- Focus on secondary trading of slots: history and future developments
- Focus on impact of noise related regulations at Community airports : the example of Zaventem airport

Secondary trading of slots : general principles

- Current rules: IATA Worldwide Slot Guidelines, Regulation n. 95/93
- Slots allocated by the coordinator : organisational form of the coordinator is not standardised in the EU
- Legal nature of slot allocation: permission by the coordinator
- Legal nature of a 'slot': public licence
- No ownership rights of the airline on the slot  slots may be withdrawn without their continuance being protected under EU law
- Slot not allocated for a certain aircraft or route
- Slots allocated only to airlines

Secondary trading of slots : allocation and transfers

- Slots are allocated primarily on the basis of grandfather rights
- Slots may be transferred – horizontal exchange (Article 8a, para 1a and 1b)
- Slots may be exchanged (Article 8a, para 1c)
- Outright sale of slots is unlawful under EU law
- Practice of exchange of slots with monetary compensation
- The Regina v. Airport Co-Ordination Ltd (Ex parte the States of Guernsey Transport Board) or the situation in the UK and Ireland
- The situation in continental Europe

Secondary trading of slots: evolution

- Original position of the Commission: exchanges with compensation are illegal (Neil Kinnock, 1997)
- 2008 Communication : Commission not to pursue States where such exchanges take place
- 2011 Steer Davies Gleave report: clear advantages in authorising secondary trading
- 2011 Proposal of the Commission: recognition of secondary trading of slots
- 2015: ?

Secondary trading of slots: consequences

- Recognition of a practice which already exists
- Prevention of distortion of competition due to current differences between the UK and Ireland and the rest of Europe
- Transparency
- Valorisation of slots on balance sheets (see Deloitte's position and valorisation of slots of BMI at London Heathrow in 2007)
- Use of slots as security, a step too far ?

Noise related operating restrictions

- Current rules : Directive 2002/30/EC, ICAO 'Balanced Approach' principles and guidelines
- 1.12.2011: proposal for a Regulation on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach
- 16.04.2014: new Regulation that will come into effect on 13 June 2016

Noise related operating restrictions: Zaventem and noise

- Legislative framework:
 - State: decision of the Secretary of State of 15 March 2012 on the routes to be followed by planes landing or taking off (Plan Wathelet)
 - Brussels Region: noise limitation legislation
- Operating restrictions? Decision of the ECJ Case European Air Transport SA v. IBGE and Brussels
- Subsequent decision of the Council of State: no operating restriction

Noise related operating restrictions: Zaventem and routes

- Recent decision of the Brussels Commercial Court : the State did not respect the procedures prescribed by Directive 2002/30 when deciding on certain routes
- As a consequence: the noise pollution level in Brussels increased (ULB Study)
- The State has been condemned to return to the situation existing before the implementation of the Plan Wathelet :

'it is proven beyond doubt that the assessments (read: fines) made by the IBGE following the implementation of the Wathelet Plan are the consequence of the routes modifications imposed by the Belgian State'

Noise related operating restrictions: and the airlines?

- Problems highlighted by the Zaventem case:
 - Lack of coordination between different authorities (see letter from the Brussels Alliance)
 - Economic impact is not considered an ‘operating restriction’ until and unless airlines are forced to stop flying to or from a certain airport
- Current situation: airlines are sanctioned even if they comply with
 - all airport (AIP) and control tower flight instructions; and
 - the ICAO noise standards (“ICAO chapters”); and
 - the BRU airport noise quota count regulation; and
 - all other Federal or international legislation.

Thank you for your attention.

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