

EUACA position paper on a temporary exemption to the EU Slot Regulation use-it-or-lose-it rule due to the COVID-19 outbreak.

March 9th, 2020

EUACA is the association of all European Airport coordinators and Schedules facilitators working under the (EEC)95/93 Regulation (EU Airport Slots Regulation). Officially appointed Coordinators and Schedules facilitators of all EU Member States but also of the UK, Norway, Switzerland and Iceland.

Facing a sudden decrease of passenger bookings linked to the COVID-19 outbreak in many countries of the World, air carriers are canceling a significant number of flights on very congested airports and are concerned about the impact of these cancelations on what is called their “historic rights” for future seasons. Indeed, the current EU Slot Regulation requires air carriers to use their series of slots on coordinated airports during a season at least at a level of 80% of the period for which the slots were allocated (so-called “use-it-or-lose-it” rule). The EU Slot Regulation includes a list of flight cancelation reasons - caused by unforeseeable and unavoidable circumstances outside the air carrier's control - in which the 80% requirement is not to be applied. This list, however, does not cover cases of lower flight load factors due to exceptional circumstances such as the COVID-19 outbreak.

EUACA recently published a communication to explain that Coordinators can neither decide on a general dispensation of the 80/20 requirement nor can they interpret the exceptional cases given in the Slot Regulation (Art. 10 para. 4) as to include a situation like the present crisis caused by the COVID-19 outbreak. EUACA reminded that an amendment of this regulation is necessary should the Regulator decide to grant dispensation from the use-it-or-lose-it requirement. This had already been the case in the past for the SARS outbreak, the September 11th terrorist attacks and the global financial and economic crisis.

EUACA members acknowledge the sudden drop of passenger bookings due to the exceptional COVID-19 outbreak that air carriers have been facing on an ever-growing number of markets and are concerned by the following issues:

- a. some air carriers not confident that they will not lose their historic rights for the next equivalent season, may fly aircraft with extremely low load factors which is neither economically nor environmentally a good solution.
- b. If and when air carriers nevertheless cancel their flights accepting the risk of losing their historic rights, the cancellations are often made week by week and the corresponding airport slots cannot be efficiently reallocated when they could.
- c. In the current circumstances of major market disruption, airlines could lose their historic rights without a waiver of the use-it-or-lose-it rule. Although subsequent reallocation of slots would be in keeping with the need for slot mobility, after the COVID-19 outbreak there could be significant and long lasting changes to the network structure of the airport concerned and to the routes and types of services offered to passengers, which may not be consistent with the normal evolution of demand.

For those reasons and taking into account that a vast majority of markets are now seriously affected EUACA members are of the opinion that the EU Regulators should urgently initiate an amendment of the EU Slot Regulation that would authorize the Coordinators to consider slots being part of a series and which have been canceled by air carriers, as operated for the purpose of the determination of the concerned carrier's historic rights.

EUACA members consider that such a general waiver to the EU Slot Regulation's use-it-or-lose-it rule should be granted at this stage for operations planned approximately between mid-February/beginning of March 2020 and until the end of June 2020 at the latest as a first step, with a provision for a possible extension should the COVID-19 outbreak crisis continue. Decision to prolong the waiver should then be made by the Regulators by the end of May 2020 based on supporting data provided by the air carriers' community.