

Dublin Airport Authority Submission to the  
Commission for Aviation Regulation

On

Consultation on the Introduction of Sanctions  
under Article 14.5 of EU Regulation 95/93, (as  
amended) on Common Rules for the  
Allocation of Slots at Community Airports

Commission Paper CP2/2006

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## 1 Introduction

Dublin Airport Authority welcomes the opportunity for consultation on the introduction of sanctions under article 14.5 of EU Regulation 95/93, (as amended) on common rules for the allocation of slots at community airports.

## 2 Questions for Consultation

As invited in section 3.6 of the paper, these are the views of Dublin airport on the questions posed.

### ***Q1. What do respondents believe ought constitute repeated and intentional operation of air services at a time significantly different from the allocated slot?***

#### Definition part 1: ‘...intentional operation of air services...’

Dublin airport believes that if a carrier:

tickets passengers at a time different to the slot time

or

sells or advertises seats at a time different to the slot time

or

for non scheduled or non charter flights, indicates to other relevant agencies a different operating time from the slot time,

or

files for a CFMU slot time that differs from the airport slot time

or

operates with a larger aircraft than the slot allocated at a terminal constrained airport,

any of the above should constitute intent to operate in conflict with the allocated slot.

Also in the case of a "no show" or a failure to use a slot the mere non-arrival / non-departure of the flight should be sufficient to show "intention".

#### Definition part 2 ‘...repeated ... operation of air services...’

Carriers with 2 or more actual operations (scheduled or ad hoc) with previously indicated intent to operate at a time different to the allocated slot should fall in to this category.

Definition part 3 ‘...at a time significantly different from the allocated slot?’

Flights operating +/- 5 minutes from the allocated slot shall be deemed significant.

Definition part 4 allocated slot?

The slot as allocated by ACL. The term ‘slot’ is previously defined within the Regulation

**Q2. What do respondents believe constitutes prejudice to airport operations? How should this be measured or identified?**

Part 1 ‘What...constitutes prejudice?’

Services not flying to a cleared slot time and operating in breach of the declared capacity limits, as defined in the Dublin Airport Coordination Committee, should be deemed to prejudice airport operations.

The efficient working of a coordinated airport means that all operations, at any time of the day or night, must be planned to operate at the allocated slot time and meet all the relevant terms applying at the airport. The integrity of the slot allocation system depends on planned adherence to slots at all times.

Part 2 ‘How should this be measured or identified?’

The airport authority, operators and relevant parties should advise the Coordinator directly where they believe there has been prejudice to their operation detailing the prejudice caused.

**Q3. Do respondents agree that the Coordinator is best placed to decide if prejudice has occurred? Should the Coordinator consult with other parties at the airport before making this finding?**

Part 1 ‘...Coordinator is best placed to decide if prejudice has occurred?’

It is the view of Dublin airport that the Coordinator is best placed to decide if prejudice has occurred as the Coordinator is required under the EU Regulation to act in a ‘neutral, non-discriminatory and transparent’ way.

Part 2 ‘...consult with other parties...’

Consultation with parties at Dublin airport should be undertaken before determining if prejudice has occurred. However, this consultation should be brief to facilitate a speedy process. For example, the Coordinator could communicate with Dublin Airport and/or relevant carriers or ground handlers by email to request information regarding the issue at hand. The Irish Aviation Authority should be consulted in the event of an airfield issue.

**Q4. Should the Coordinators decision be subject to review? For example, by the Slot Coordination Committee or should the decision of the Coordinator be reviewed by a different body?**

If challenged, the Coordinator’s decision should be capable of being reviewed preferably by either a suitably qualified and experienced independent person/body in an ombudsman type role or, if required, by the Commission for Aviation Regulation (the Commission is the competent authority in the state for the purposes of the EU regulation).

Criteria for the grounds of a review should be clearly set out. Possible grounds are as follows:

- (a) there is a substantial flaw in the Coordinator’s decision;
- (b) there is a substantial flaw in the process by which the decision was reached;
- (c) there is relevant additional evidence, which has become available (and could not reasonably have been provided before).

The review body will first decide whether the request falls within the grounds for review. If there are no valid grounds for a review the Coordinators decision should stand. If there are grounds for a review, it should either be held orally or in writing, should take place within 7 working days of the decision to review and the reviewing body should be adequately resourced to undertake the review. The decision of the Coordinator should stand while the review is taking place but the reviewing body should have the power to substitute its decision for that of the Coordinator.

Dublin Airport does not believe that the Coordination Committee or a subgroup of the committee is best suited to review the decision, as:

- The carrier in question may be in attendance as a member of the Coordination Committee and their views may be perceived to be biased, with the possibility for a unanimous

decision reduced. Other parties may also have a vested interest in the result of the review.

- The constitution of the Committee does not currently facilitate this process in full and a two-thirds majority vote of all parties would be required to amend the Committee's constitution.
- The number of meetings required would be likely to increase. The composition of the Committee does not lend itself towards extra meetings at short notice, as some members travel from the UK and Europe to attend. Some participants are limited in terms of the amount of time that they may devote to such matters.
- There is no known precedent for a Coordination Committee to review an issue in a sanctions environment where financial penalties will result. E.g. slot performance committees in the UK deal with issues of poor slot performance.

***Q5. Do respondents feel that the proposed penalty per flight for non-compliance with the slot coordination process is appropriate? If not, suggested alternative penalties should be set out in replies.***

Dublin airport believes that 'effective, proportionate and dissuasive sanctions' should be available as set in Article 14.5 and the scale and range of fines put in place similar to those as outlined for Spanish airports with an escalation of penalties from the €5,000 level indicated, if the non-compliance is persistent.

***Q6. Do respondents believe it is appropriate to deal with collection of penalties in the proposed summary fashion before the District Court if necessary?***

The collection of penalties should take place in whatever court is appropriate having regard to the level of fine imposed. 21 days for payment is appropriate, as are the measures stated for recovery in the event of a default.

### 3 General Comments

**Item 1: Repeated and intentional operation of air services at Dublin Airport where a slot has not been allocated or a slot has been withdrawn by ACL.**

- (1) Sanctions should apply in these cases
- (2) Also note Article 14.1 of the Regulation which should be invoked in this case (i.e.) an air carrier's flight plan should be capable of being rejected.

**Article 14.1 Enforcement**

An air carrier's flight plan may be rejected by the competent Air Traffic Management authorities if the air carrier intends to land or take off at a coordinated airport, during the periods for which it is coordinated, without having a slot allocated by the coordinator.

**Item 2: Other types of slot misuse which should be covered by these sanctions:**

- (a) The use of slots in a significantly different way from that indicated at the time of allocation e.g. operating with a larger aircraft than the slot allocated at a terminal constrained airport.
- (b) Carriers regularly failing to cancel slots they no longer require, even at short notice, which could have been reallocated to, and used by, other air carriers.
- (c) The return of unwanted slots after the slot return deadline.
- (d) The return of unwanted slots after the start of the scheduling period.

This list is not exhaustive and there may be other forms of slot misuse, which become identified over time.

**Item 3: Local Rules as agreed by the Dublin Airport Coordination Committee.**

Financial penalties alone may not be enough to deter an air carrier from continuing to misuse the allocated slots.

To secure effective compliance with allocated slots and to dissuade air carriers from ongoing misuse the Coordinator may also use other powers under any local rules, agreed by the Dublin Airport

Coordination Committee, or by using its powers arising directly under the Council Regulation.

**Item 4: Withdrawal of slots and penalties.**

In order to provide all parties with a clear view regarding slot penalties it is important that the Commission produce guidelines outlining the process of application of sanctions and setting out the relationship between article 14.4 of the Regulation (withdrawal of slots) and article 14.5 of the Regulation (enforcement of sanctions). It is proposed within the UK that both functions, (the withdrawal of slots and the enforcement of sanctions), be undertaken by one party, the Coordinator (Airport Coordination Ltd). Given that the Commission's proposal for Ireland suggests that these functions are divided between two parties, it is important to be clear how they will be applied. For example, if an operator repeatedly pays fines for misuse, at what point will the slot be withdrawn. How will the two parties (the Coordinator and the Commission for Aviation Regulation) liaise to agree this? A preferred option would be that the Coordinator would make the recommendation to the Commission regarding the appropriate penalty, on a case-by case basis. Guidelines, quoting example situations, similar to those proposed within the UK would also be helpful to all.

**Item 5: Financial Penalties.**

Penalties collected should be used to defray the cost of overall coordination to the airport authority and airlines.