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Slots

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A. Definition

1 An airport slot, or 'slot', provides an air carrier or other aircraft operator with the permission to use the full range of airport infrastructure that is essential for operating an air service at a specific time on a particular date—an air carrier or other aircraft operator that is interested to operate an international civil air service must also have secured the necessary international air traffic rights secured through air service agreements and hold a valid operating licence. An air carrier or other aircraft operator that wishes to take-off or land at an airport requires a slot to perform the corresponding air service. Capacity at airports is managed through a process of coordination, which is guided by a set of rules that aim to ensure efficient use of limited capacity and airport infrastructure.

2 The stakeholders that participate in slot coordination fall into five key categories: (i) air carriers or other aircraft operators; (ii) airport managing entities; (iii) air traffic control authorities; (iv) airport coordinators and facilitators; and (v) government authorities.

B. International Slot Coordination

3 For the purposes of slot coordination, a supply and demand analysis determines how an airport is classed relative to the ability of its infrastructure capacity to accommodate congestion. There are three categories, or levels, of airports. A level one airport is generally able to deal with demands on use of its infrastructure at all times. The congestion at a level two airport at some times in a season requires the involvement of a facilitator to manage adjustments to flight schedules. As congestion cannot be accommodated at a level three airport, a coordinator is appointed to allocate slots to air carriers. Slots are only allocated for level three airports.

4 The International Air Transport Association (IATA) organizes a biannual slot conference, during which air carriers, airport coordinators, and facilitators convene to discuss and reach consensus on schedule adjustments for level two airports, and to manage and allocate slots for level three airports. There are two scheduling seasons: winter and summer. The IATA winter scheduling season begins on the last Sunday in October, and the summer scheduling season commences on the last Sunday in March. The slot conference held in June of each year is the forum for the winter season; each November the summer season is discussed. Both IATA and non-IATA member airlines are invited to join the conference on a voluntary basis. The slot conference operates according to IATA guidelines and rules. A block exemption from the European Union (EU) competition rules for IATA scheduling and slot allocation consultations was in place between 1988 and 2006. IATA slot conference participants are now subject to European Union (EU) competition rules.

5 The Worldwide Airport Slot Guidelines (WASG) set out the key principles of coordination of slots. Since 1 June 2020, the WASG is jointly published by IATA, Airports Council International (ACI), and the Worldwide Airport Coordinators Group. The Worldwide Airport Slot Board provides recommendations on best practice.

C. EU Regulation of Slot Allocation

6 In the EU, the exercise of traffic rights is subject to published rules relating inter alia to the allocation of slots (Article 19(1) of Regulation No 1008/2008). The need to regulate the allocation of airport slots was identified following the establishment of a single European market for aviation (→ *Single European Sky*) between 1987 and 1993, and the growth in demand for air services on that market. This led to concern over the ability of an increasing number of congested airports in Europe to cope with an expanding air transport market. The first piece of legislation to be introduced to address this challenge was Council Regulation (EEC) 95/93 ('Slots Regulation'), which established common rules for the

allocation of slots at EU airports. The aim of the Slots Regulation was to create a slot allocation system through which access to airport slots at congested EU airports is facilitated while the ‘principles of transparency, neutrality and non-discrimination are met’—these principles are based on the IATA Worldwide Airport Slot Guidelines system governing the system of slot allocation. Within this system, slot coordinators solely are responsible for the allocation of slots (Article 4(5) Slots Regulation).

7 Additional rules on slot allocation were introduced in 2004 by way of amending the Slots Regulation. In addition, the amending Regulation provided an updated definition for the term ‘slot’: ‘the permission given by a coordinator in accordance with this Regulation to use the full range of airport infrastructure necessary to operate an air service at a coordinated airport on a specific date and time for the purpose of landing or take-off as allocated by a coordinator in accordance with this Regulation’ (Article 2(a) Slots Regulation, as amended by Regulation (EC) No 793/2004).

8 Along with an updated definition of ‘coordinated airports’, the amending Regulation also introduced a new category of airports that fall within its scope, ‘schedules facilitated airports’, and the appointment by the Member State responsible for such airports of a ‘schedules facilitator’ (Article 4(b)(1) Slots Regulation, as amended by Regulation 793/2004). The change in terminology brings the EU legislation in line with terminology used internationally (Recital 4 Regulation 793/2004). Internationally, airports are categorised by: (i) schedule facilitation; (ii) schedule adjustments; and (iii) slot coordination. At a schedules facilitated airport, ‘there is potential for congestion at some periods of the day, week or year which is amenable to resolution by voluntary cooperation between air carriers and where a schedules facilitator has been appointed to facilitate the operations of air carriers operating services or intending to operate services at that airport’ (Article 2(i) Slots Regulation, as amended by Regulation 793/2004).

9 By contrast, a coordinated airport is one where, ‘in order to land or take off, it is necessary for an air carrier or any other aircraft operator to have been allocated a slot by a coordinator, with the exception of State flights, emergency landings, and humanitarian flights’ (Article 2(g) Slots Regulation, as amended by Regulation 793/2004).

10 The additional rules ‘helped to make the slot system more flexible in terms of both allocation and use and they also strengthened the coordinator’s role and the monitoring of compliance’ (European Commission, ‘Air: Slots’). In terms of greater flexibility, the amending Regulation introduced ‘slot mobility’. While generally slots are allocated from a ‘slot pool’ to applicant air carriers and must be returned to the pool at the expiry of the scheduling period for which they were requested, slot mobility allows air carriers to transfer and exchange allocated slots (Article 8(a) Slots Regulation, as amended by Regulation 793/2004). In short, air carriers are required to use at least 80 per cent of their allocated slots if they are to be retained, as ‘grandfather rights’, in the next equivalent scheduling season. Otherwise, they may be lost on application of what commonly is referred to as the ‘use it or lose it rule’ (see Czerny). The definition of ‘new entrant’ air carriers, which have certain rights of priority in the slot allocation process and obligations regarding their entitlements, was also reinforced (Article 2(b) Slots Regulation, as amended by Regulation 793/2004).

11 Strengthening the coordinator role was achieved firstly by emphasising that the coordinator gives permission in the updated definitions of ‘slot’ and ‘coordinated airport’. Secondly, air carriers that operate or intend to operate at schedules facilitated or coordinated airports must provide all relevant information upon request to the schedules

facilitator or coordinator, respectively (Article 7(1) Slots Regulation, as amended by Regulation 793/2004).

12 The Slots Regulation requires the Member State responsible for a coordinated airport to set up a 'coordination committee', which may be designated for more than one airport (Article 5(1) Slots Regulation, as amended by Regulation 793/2004). Membership of the coordination committee should be comprised of 'air carriers using the airport(s) in question regularly and their representative organisations, the managing body of the airport concerned, the relevant air traffic control authorities and the representatives of general aviation using the airport regularly' (Article 5(1) Slots Regulation, as amended by Regulation 793/2004). For schedules facilitated and coordinated airports, the Member State responsible appoints 'a qualified natural or legal person as schedules facilitator or airport coordinator respectively after having consulted the air carriers using the airport regularly, their representative organisations and the managing body of the airport and the coordination committee, where such a committee exists' (Article 4(1) Slots Regulation, as amended by Regulation 793/2004).

13 Member States that are responsible for schedules facilitated and coordinated airports have the duty under the Slots Regulation to ensure that their respective airports' schedules facilitator(s) and coordinator(s) act according to the Regulation in an 'independent, neutral, non-discriminatory and transparent manner' (Articles 4(2)(a) and (c), respectively, Slots Regulation, as amended by Regulation 793/2004). In addition, Member States must ensure the independence of the coordinator at a coordinated airport 'by separating the coordinator functionally from any single interested party', including that the financing of the coordinator is done in such a way so as to 'guarantee the coordinator's independent status' (Article 4(2)(b) Slots Regulation, as amended by Regulation 793/2004).

14 The roles of the schedules facilitator and coordinator are to be distinguished. The schedules facilitator gives advice and makes recommendations to air carriers, such as 'alternative arrival and/or departure times when congestion is likely to occur' (Article 4(4) Slots Regulation, as amended by Regulation 793/2004). It also monitors the extent to which air carriers conform to the schedules it has recommended (Article 4(6) Slots Regulation, as amended by Regulation 793/2004). The coordinator, conversely, is solely responsible for the allocation of slots, also in emergency situations (Article 4(5) Slots Regulation, as amended by Regulation 793/2004).

D. The Slot Allocation Process

15 Airport slots are allocated in pairs: a take-off slot and a landing slot. A 'series of slots' is defined in the Slots Regulation as 'at least five slots having been requested for the same time on the same day of the week regularly in the same scheduling period and allocated in that way or, if that is not possible, allocated at approximately the same time' (Article 2(k) Slots Regulation as amended by Regulation 793/2004). This definition closely matches the IATA definition of the same (see IATA, 'Worldwide Slot Guidelines', 99). Slots are allocated from a 'slot pool', which contains slots not already allocated by the coordinator or retained by air carriers through grandfather rights (by way of Article 8(2) Slots Regulation, as amended by Regulation 793/2004). All new slot capacity, such is the case when new or more efficient airport infrastructure is introduced, is to be placed into the slot pool (Article 3(3) Slots Regulation as amended by Regulation 793/2004).

16 In general, applicant air carriers request one or more series of slots from the slot pool. Once a series is allocated to them, air carriers have the requisite permission to use the airport infrastructure during the requested scheduling period, at the expiry of which the air carriers must return the slots to the slot pool (Article 10 Slots Regulation, as amended by Regulation 793/2004). If, however, an air carrier uses a series of slots for the operation of scheduled and programmed non-scheduled air services for ‘at least 80% of the time during the scheduling period for which it has been allocated’, the air carrier shall be entitled to use the same series of slots in the next equivalent scheduling period if it so requests (Article 8(2) Slots Regulation, as amended by Regulation 793/2004), so long as this is within the time-limit, if any, specified by the schedules facilitator or coordinator (under Article 7(1) Slots Regulation, as amended by Regulation 793/2004). In this way, slots become valuable assets for airlines. In addition to the fact that an airport is an essential facility for airlines, and access to the airport infrastructure rests entirely on acquisition and maintenance of the requisite slots, some airlines choose to include slot valuations in their balance sheets (see Olbrich and Hasslinger). From a legal perspective, this is perhaps curious; airport slots are merely permissions, not property rights. Indeed, whereas the Slots Regulation and Regulation 793/2004 provide technical and operational definitions of airport slots, these two key pieces of legislation do not provide a *legal* definition of slots.

17 It is foreseeable that the demand for slot requests at the most congested EU airports may exceed the supply of slots available in the pool. When such a situation arises, the Slots Regulation prescribes that air carriers operating commercial air services are to be given preference (Article 8(3) Slots Regulation, as amended by Regulation 793/2004). This provision further provides that air carriers operating commercial air services as scheduled or programmed non-scheduled air services have top priority. If there are competing requests from two or more carriers in the same category of services, those carriers operating year-round are given preference.

18 Under EU law, Member States may impose public service obligations (→ *State aid and Public Service Obligations in Road Transport*). If an air carrier requires a slot to perform public service obligations, the Member State in question may reserve the required slots at a coordinated airport (Article 9(1) Slots Regulation, as amended by Regulation 793/2004). If they are not used, the slots will be made available to other carriers interested in operating the route, in certain cases by way of tender procedure (Article 9(2) Slots Regulation, as amended by Regulation 793/2004; see also Article 17 Regulation 1008/2008).

E. New Entrants

19 For the purposes of the Slots Regulation, a ‘new entrant’ air carrier is defined through its act of requesting a slot. There are three situations in which an air carrier will qualify for the status of new entrant. There is a common requirement in all of the following three circumstances that if an air carrier’s request were to be accepted, it would then hold fewer than five slots at the airport on the day in question. The three situations arise when an air carrier requests: (i) a slot as part of a series of slots (Article 2(b)(i) Slots Regulation, as amended by Regulation 793/2004); (ii) a series of slots for a non-stop scheduled passenger service between two EU airports where competition on that non-stop route is limited to two other air carriers (Article 2(b)(ii) Slots Regulation, as amended by Regulation 793/2004); or (iii) a series of slots at an airport for a non-stop scheduled passenger service between that airport and a regional airport where no other carriers operate a direct service on that day (Article 2(b)(iii) Slots Regulation, as amended by Regulation 793/2004). However, if an air

carrier holds more than 5% of the total number of slots available at an airport on that day, it will not be considered as a new entrant.

20 A new entrant air carrier enjoys a special right of priority to slots the coordinator allocates from the slot pool. The coordinator must allocate half of these slots to new entrants unless the total request fall below a 50% threshold, in which case the coordinator 'shall treat the requests of new entrants and other carriers fairly, in accordance with the coordination periods of each scheduling day' with preference given to air carriers that qualify for new entrant status (Article 10(6) Slots Regulation, as amended by Regulation 793/2004). A new entrant will lose its new entrant status if it is 'offered a series of slots within one hour before or after the time requested but has not accepted this offer' (Article 10(7) Slots Regulation, as amended by Regulation 793/2004).

F. Slot Relief

21 The Slots Regulation has been amended seven times. The amending Regulation 793/2004 is distinct from the others as it introduced additional rules in the Slots Regulation relating in particular to the coordinator's independent status and the functioning of the slot allocation procedures. The remaining six amendments relate to *temporary* suspensions of the 80% 'use it or lose it' rule (Article 10(3) of the original Slots Regulation set out the original 80% 'use it or lose it' rule, this was replaced by Article 10(4) of Slots Regulation, as amended by Regulation 793/2004). In the industry, suspension of the rule is commonly referred to as 'slot relief'. Recognising the scarcity of slots at certain European airports, the practice of granting slot relief ensures that non-utilisation of slots by air carriers does not cause them to lose their entitlement to unused slots. Slot relief is given in response to certain world events that impact significantly on the operation of air services and the demand for air travel.

22 Following the events of 11 September 2001, the Slots Regulation was amended so as to entitle air carriers 'to the same series of slots during summer scheduling season 2002 and winter scheduling season 2002/2003 as had been allocated to them on the date of 11 September 2001' for the corresponding scheduling seasons, respectively (Article 10(a) Slots Regulation, as inserted by Article 1 of Regulation (EC) No 894/2002).

23 In light of the serious impact on air transport operations brought about by the Iraq war that began in March 2003, and the outbreak of the Severe Acute Respiratory Syndrome (SARS) at around the same time, a new amendment provided that 'coordinators shall accept that air carriers are entitled to the same series of slots during the summer 2004 scheduling season as were allocated to them during the summer 2003 scheduling season.' (Article 10(b) Slots Regulation, as inserted by Article 1 of Regulation (EC) No 1554/2003).

24 Owing to the global economic and financial crisis of 2008–2009 and the impact this had on the air transport sector, slot relief was granted to air carriers 'for the series of slots for the summer 2010 scheduling period that were allocated to them at the start of the summer 2009 scheduling period' in accordance with the Slots Regulation (Article 10(a) Slots Regulation, as amended by Article 1 of Regulation (EC) No 545/2009).

25 In view of the emergency situation caused by the COVID-19 pandemic and the need to take swift action in the area of slot relief, the EU co-legislators provided a special regime whereby the European Commission ('Commission') has delegated powers initially only in respect of prolonging the period during which the envisaged measures should apply (Article 12(a) Slots Regulation, as inserted by Article 1(2) of Regulation (EU) 2020/459). The power delegated by the EU co-legislators (the European Parliament and Council of the European Union) to the Commission to adopt acts is in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU)). Slot relief was granted in view of the

COVID-19 pandemic initially only for routes to China and Hong Kong for the period 23 January–29 February 2020 and for the entire summer 2020 scheduling period (Article 10(a) Slots Regulation, as amended by Article 1(1) of Regulation 2020/459). The measures were extended until 27 March 2021 (Article 10(a)(1) Slots Regulation, as amended by Article 1 of Commission Delegated Regulation (EU) 2020/1477). This was done so as ‘to protect the financial health of air carriers and avoid the negative environmental impact of empty or largely-empty flights operated only for the purpose of maintaining underlying airport slots’ (Commission Delegated Regulation (EU) 2020/1477, recital 3).

26 In February 2021, the Slots Regulation was amended again given that the ‘impact on air carriers has been detrimental since 1 March 2020, and this is likely to continue in the years to come’ (Regulation (EU) 2021/250, recital 1). Firstly, the definition of ‘new entrant’ air carrier was broadened with respect to the total number of slots held at an airport on a certain day: from fewer than five to fewer than seven slots when it requests a slot, and from fewer than five to fewer than nine slots when it requests a series of slots to operate non-stop services between two EU airports (Article 2(a)(ii) Slots Regulation, as amended by Article 1(1) of Regulation 2021/250).

27 Secondly, given that the utilisation rate at coordinated airports fell below 80%, a separate amendment allowed air carriers to return 50% of their allocated series of slots before the start of the 2021 summer scheduling season (Article 8 Slots Regulation, as amended by Article 1(3)(b) of Regulation 2021/250). Air carriers are nevertheless required to use at least 50% of their remaining slots in order to retain their entitlement (Articles 10(2)(a) and 10(a) Slots Regulation, as amended by Articles 1(5)(a) and 1(6) of Regulation 2021/250, respectively). Air carriers must return any slot that they do not intend to use at least three weeks before the scheduled flight, whereby creating new capacity for other carriers to utilise should they wish to request the slot (Article 10(a) Slots Regulation, as amended by Article 1(6) of Regulation 2021/250). The European Commission monitored the utilisation threshold in connection with the COVID-19 crisis and took action by delegated powers to make changes to the threshold for the winter 2021/2022 and summer 2022 (Article 10(a) Slots Regulation, as amended by Article 1(6) of Regulation 2021/250; see European Commission, ‘Aviation: slot relief rules for airlines amended and extended’). At the time of writing, the European Commission had delegated powers until February 2022 to extend the relief period and to amend the ‘use it or lose it’ rule within a range of 30–70%.

G. Enforcement Issues

28 As the exercise by air carriers of traffic rights in Europe is subject to rules on slot allocation (Article 19(1) Regulation 1008/2008), an air carrier may be unable to operate the air service it desires without first being allocated the required slot(s). Where an air carrier intends to land or take off at a coordinated airport, that air carrier’s ‘flight plan may be rejected by the competent Air Traffic Management authorities’ if the required slot(s) has not been allocated to it by the coordinator (Article 14(1) Slots Regulation, as amended by Regulation 793/2004).

29 In order to use a series of slots, an undertaking must first hold an operating licence or equivalent. If it does not, or the competent licencing authority does not at least declare that the undertaking in question is likely to be issued with an operating certificate or equivalent, the coordinator must withdraw the series of slots provisionally allocated to the undertaking or air carrier in question (Article 14(2) Slots Regulation, as amended by Regulation 793/2004).

30 If an air carrier engages in so-called ‘slot abuse’, insofar that its operations of air services diverge ‘repeatedly and intentionally’ from the timings assigned in the allocated series of slots, or it uses its allocated slots in a ‘significantly different way from that indicated at the time of allocation and thereby cause prejudice to airport or air traffic operations’, the air carrier will lose the slots (Article 14(4) Slots Regulation, as amended by Regulation 793/2004).

H. Slot Mobility

31 Ever since 2004, following the introduction of slot mobility air carriers may transfer slots internally ‘from one route or type of service to another route or type of service operated by the same carrier’ (Article 8(a)(1)(a) Slots Regulation, as amended by Regulation 793/2004); ‘between parent and subsidiary companies, and between subsidiaries of the same parent company’ (Article 8(a)(1)(b)(i) Slots Regulation, as amended by Regulation 793/2004); ‘as part of the acquisition of control over the capital of an air carrier’ (Article 8(a)(1)(b)(ii) Slots Regulation, as amended by Regulation 793/2004); and ‘in the case of a total or partial take-over when the slots are directly related to the air carrier taken over’ (Article 8(a)(1)(b)(iii) Slots Regulation, as amended by Regulation 793/2004). Practical examples include the transfer of a slot within the Lufthansa Group, from one route to another operated by Lufthansa German Airlines, or as between Swiss International and Austrian Airlines, both subsidiary companies of the Lufthansa Group; or the acquisition of Brussels Airlines by the Lufthansa Group.

32 Where slots are transferred in the context of a merger or acquisition, and the EU Merger Regulation (EUMR) is applied, commitments may be required such as divestiture of slots or the offer of slots to a competitor air carrier so as to remedy competition concerns (Article 9 Council Regulation (EC) 1/2003). By example, when the International Airlines Group (IAG) of which British Airways (BA) is a subsidiary, acquired British Midland International from the Lufthansa Group in 2012, IAG acquired more than 40 pairs of slots at London Heathrow (LHR) (see BBC ‘BA-owner IAG completes BMI takeover’). IAG gave commitments to release twelve pairs of slots at LHR (European Commission, ‘Mergers: Commission approves acquisition of British Midlands (bmi) by IAG subject to conditions’), which were allocated as ‘remedy slots’ to BA’s main competitor, Virgin Atlantic (Rivers). When Lufthansa and easyJet acquired certain assets including slots of the insolvent Air Berlin Group in 2017, however, the European Commission did not in its assessment under the EUMR provide remedy slots to competitors of Lufthansa or easyJet (see European Commission, ‘Mergers: Commission approves proposed acquisition of parts of Air Berlin by easyJet’; ‘Mergers: Commission approves acquisition by Lufthansa of Air Berlin subsidiary LGW, subject to conditions’). One such competitor, LOT Polish Airlines, brought actions for appeal of the Commission’s decisions; the General Court dismissed the actions in 2021 (*Polskie Linie Lotnicze ‘LOT’ SA v European Commission*).

33 Air carriers may exchange slots externally ‘one for one’ with other air carriers (Article 8(a)(1)(c) Slots Regulation, as amended by Regulation 793/2004). In all cases of transfer or exchange of slots, the coordinator must be notified and therefore will not take effect until the coordinator provides its express confirmation (Article 8(a)(2) Slots Regulation, as amended by Regulation 793/2004). The coordinator will decline to confirm the transfer or exchange if it does not conform with the Slots Regulation requirements and risks prejudicing airport operations or limitations imposed by public service obligations (Article 8(a)(2)(a-b) Slots Regulation, as amended by Regulation 793/2004).

34 It should be noted that slots allocated to an air carrier that qualifies for new entrant status may not be transferred internally ‘except in the case of a legally authorised takeover of the activities of a bankrupt undertaking’ (Article 3(a) Slots Regulation, as amended by Regulation 793/2004) or to another route operated by the air carrier (Article 3(b) Slots Regulation, as amended by Regulation 793/2004), for a period of two equivalent scheduling periods. Equally, slots may not be exchanged externally for a period of two equivalent scheduling periods ‘except in order to improve the slot timings for these services in relation to the timings initially requested’ (Article 3(c) Slots Regulation, as amended by Regulation 793/2004).

35 In certain jurisdictions, such as the United Kingdom, it is common practice for air carriers to buy and sell slots through secondary trading (this practice occurs regularly, for a list of completed slot trades with or without monetary compensation, see Airport Coordination Limited, ‘Completed Trades’) The Slots Regulation is silent on the question of exchanges of slots for monetary or other consideration (see Communication from the Commission to the European Parliament, the Council the European Economic and Social Committee and the Committee of the Regions: On the application of Regulation (EEC) no 95/93 on common rules for the allocation of slots at Community airports, as amended, 6). While a communication adopted by European Commission in 2008 signalled ‘the acceptance of ‘secondary trading’ of airport slots between air carriers’ (European Commission, ‘Airport slot allocation: The Commission clarifies the existing rules’), it declared in the ‘Better Airports Package’ launched in 2011 (European Commission, “‘Better Airports Package” Launched’) that secondary trading ‘does not benefit from a uniform and consistent legislative framework, including guarantees of transparency and competitive safeguards’ and therefore should be regulated (Proposal for a Regulation of the European Parliament and of the Council on common rules for the allocation of slots at European Union airports (Recast), 13). The Commission noted that the practice of secondary trading of slots for monetary and other consideration at congested EU airports raises doubts about its compatibility with the Slots Regulation (Communication from the Commission to the European Parliament, the Council the European Economic and Social Committee and the Committee of the Regions: On the application of Regulation (EEC) no 95/93 on common rules for the allocation of slots at Community airports, as amended, 3). For example, incumbent airlines that engage in ‘slot hoarding’ and ‘slot babysitting’ through leasing arrangements at a congested airport, prevent new entry to the market or restrict other air carriers from expanding capacity at that airport. Furthermore, slot exchanges for monetary or other consideration may exacerbate this situation and in turn raise competition concerns (see Truxal, 2014; Dempsey). While pairs and series of slots acquired through the process of a merger or acquisition will be assessed under the EUMR, it is unlikely that a ‘mere’ agreement to sell slots will be scrutinised by a competition authority. As airport slots gain the attention of regulators in the context of requests for slot relief, a future, critical review by authorities of the current ‘grey market’ for airport slots is foreseeable and desirable.

I. Proposed Recast Regulation

36 As part of the Better Airports Package the Commission published a proposal for a Recast of the Slots Regulation in December 2011 (Proposal for a Regulation of the European Parliament and of the Council on common rules for the allocation of slots at European Union airports (Recast)). The Council adopted its general approach in October 2012. At the first reading in the European Parliament, several additional measures were proposed, in particular relating to the independence of the coordinator from the airport service provider(s) and the managing body of the airport. In 2015, as part of its Aviation Strategy for Europe, the Commission urged the Council and European Parliament ‘to swiftly adopt the revised Slots Regulation in order to enable the optimal use of our busiest airports and provide clear benefits to the EU economy’ (Communication from the Commission to the

European Parliament, the Council the European Economic and Social Committee and the Committee of the Regions: An Aviation Strategy for Europe, 7). At the time of writing, the proposal remains blocked in Council.

Select Bibliography

- A Czerny, *Airport slots: international experiences and options for reform* (Ashgate 2008).
- P S Dempsey, 'Airport Landing Slots: Barriers to Entry and Impediments to Competition' (2001) 26(1) *Air and Space Law* 20–48.
- V S Ferreira, 'The Anticompetitive Effects of Slot Allocation in the EU' (2014) 14(1) *Issues in Aviation Law and Policy* 103–124.
- M B G Olbrich and M Hasslinger, 'The Valuation of Airport Slots' (2009) 74(4) *Journal of Air Law and Commerce* 897–917.
- M Rivers, 'Virgin Atlantic secures IAG's 12 Heathrow remedy slots' *Flight Global* (19 November 2012) available at: <https://www.flightglobal.com/virgin-atlantic-secures-iags-12-heathrow-remedy-slots/107903.article>.
- S Truxal, 'Risk of abuse of dominance in airport slots for 'better' European airports?' (2014) 35(6) *European Competition Law Review* 299–309.
- S Truxal, 'COVID-19 airport slot rules: what's changed and what's next for European airlines?' LSE British Politics and Policy blog (2020) available at: <https://blogs.lse.ac.uk/politicsandpolicy/covid-19-airport-slot-rules/>.

Select Documents

- Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (22 January 1993) [1993] OJ L 14/1.
- Regulation (EC) No 894/2002 of the European Parliament and of the Council of 27 May 2002 amending Council Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports (31 May 2002) [2002] OJ L 142/3.
- Council Regulation (EC) 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (4 January 2003) [2003] OJ L 1/1.
- Regulation (EC) No 793/2004 of the European Parliament and of the Council of 21 April 2004 amending Council Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports (30 April 2004) [2004] OJ L 138/50.
- Communication from the Commission to the European Parliament, the Council the European Economic and Social Committee and the Committee of the Regions: On the application of Regulation (EEC) no 95/93 on common rules for the allocation of slots at Community airports, as amended (30 April 2008) COM(2008) 227 final.
- European Commission, 'Airport slot allocation: The Commission clarifies the existing rules IP/08/672' (30 April 2008) available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_08_672.
- Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (31 October 2008) [2008] OJ L 293/3.
- European Commission, "'Better Airports Package' Launched IP/11/1484' (1 December 2011) available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_11_1484.
- Proposal for a Regulation of the European Parliament and of the Council on common rules for the allocation of slots at European Union airports (Recast) (1 December 2011) COM(2011) 827 final.

European Commission, 'Mergers: Commission approves acquisition of British Midlands (bmi) by IAG subject to conditions IP/12/338' (30 March 2012) available at https://ec.europa.eu/commission/presscorner/detail/en/IP_12_338.

BBC, 'BA-owner IAG completes BMI takeover', (20 April 2012) available at: <http://www.bbc.co.uk/news/business-17786998>.

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An Aviation Strategy for Europe (7 December 2015) COM(2015) 598 final.

European Commission, 'Mergers: Commission approves proposed acquisition of parts of Air Berlin by easyJet IP/17/5244' (12 December 2017) available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_17_5244.

European Commission, 'Mergers: Commission approves acquisition by Lufthansa of Air Berlin subsidiary LGW, subject to conditions IP/17/5402' (21 December 2017) available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_17_5402.

IATA, 'Worldwide Slot Guidelines, 10th edn', available at <https://www.iata.org/contentassets/4ede2aabfcc14a55919e468054d714fe/wsg-edition-10-english-version.pdf>.

Commission Delegated Regulation (EU) 2020/1477 of 14 October 2020 amending Council Regulation (EEC) No 95/93 as regards the temporary extension of exceptional measures to address the consequences caused by the COVID-19 pandemic (15 October 2020) [2020] OJ L 338/4.

Regulation (EU) 2021/250 of the European Parliament and of the Council of 16 February 2021 amending Council Regulation (EEC) No 95/93 as regards temporary relief from the slot utilisation rules at Union airports due to the COVID-19 crisis (19 February 2021) [2021] OJ L 58/1.

European Commission, 'Aviation: slot relief rules for airlines amended and extended' available at: https://transport.ec.europa.eu/news/aviation-slot-relief-rules-airlines-amended-and-extended-2021-07-26_en.

European Commission, 'Air: Slots' available at: https://ec.europa.eu/transport/modes/air/airports/slots_en.

Airport Coordination Limited, 'Completed Trades' available at: <https://www.acl-uk.org/completed-slot-trades/>.

Select Cases

Cases T-240/18, *Polskie Linie Lotnicze 'LOT' SA v European Commission*, (20 October 2021) ECLI:EU:T:2021:723.

Case T-296/18, *Polskie Linie Lotnicze 'LOT' SA v European Commission*, (20 October 2021) ECLI:EU:T:2021:724.