



Comments on the European Commission's proposal for further slot relief

Northern Summer 2021

IATA and A4E¹ invite the co-legislators to take into account the following comments on the European Commission's (EC) proposal for slot relief in the Northern Summer 2021 (S21) season². They are fully aligned with the Worldwide Airport Slot Board (WASB) recommendation for relief from slot use rules which airports, airlines and coordinators are advocating to be implemented globally.

1. 40/60 and full series return (Article 10-a-2-a)

The aviation industry, including airlines, airports and coordinators, are prepared to implement a threshold of 50/50, agreed by the Worldwide Airport Slot Board (WASB), to balance the restart of existing services while facilitating new services. This is proposed **only when accompanied by the ability to return full series of slots with alleviation from use** early in February, for reallocation and planning purposes. These two measures go hand in hand and will **benefit consumers, airports and airlines**. One without the other, as the EC proposal aims for, is counterproductive. A lower threshold on its own will lead to **fragmented schedules and disadvantage passengers, airports and airlines**. Airlines will be forced to meet the threshold across multiple frequencies of flights while facing severely reduced demand. **It is not a sustainable way to fully support aviation's recovery in S21.**

The 50/50 threshold also balances the restart of existing services while facilitating new services: it requires 16 weeks of operations (out of 31 weeks) that could be focused on the peak northern summer period – June to September. Failing to operate 50% provides future access opportunities through slots that are placed back in the pool for Summer 2022 allocation.

No incentive to return full slot series will reduce possibilities for slot reallocations, which is not in consumer interest

¹ A4E member Ryanair does not share this position and will communicate its views separately.

² EC Proposal for a Regulation of the EP and of the Council amending Council Regulation (EEC) No 95/93 as regards temporary relief from the slot utilisation rules at Community airports due to the COVID-19 pandemic

The WASB recommendation to allow return of full slot series and their subsequent alleviation from use in S21, serves to preserve international aviation networks and connectivity while demand recovers and operating restrictions remain in place. See for reference [Appendix One](#): Comparison of Use-it or Lose-it ratios with number of weeks required to operate.

The policy of full series returns provides the opportunity to establish entry for other carriers able to operate this coming summer season, while receiving priority to operate the same slots in S22 if capacity is available. Unsustainable operations are avoided from an economic and ecological perspective. Existing schedules can be retimed, having in mind carriers will need to retime their existing slots to operate heavily adjusted schedules for the upcoming season.

The result is beneficial to providing consumer choice and certainty of schedules, supports a balanced recovery for airlines and airports, matches the approach of other regulators and optimizes the planning of S21. For example, airports will have better information at an earlier stage to plan resources and infrastructure while airlines can make fleet and crew decisions for their network accordingly.

The Commission's proposal without full series returns alleviation will disadvantage new airlines and airports wishing to start new flights at slot coordinated airports, as well as the ability to 'mobilize' the slot pool for retiming of existing services for existing airlines.

2. Defining force majeure for non-use of slots (Article 10-4-e)

We invite the co-legislators to include the industry agreed criteria for Force Majeure (or Justified Non-Use of Slots - JNUS) **to provide airlines and airports with certainty in advance and allow coordinators to apply a consistent approach across Europe and the world.** Article 10-4-e proposes that force majeure can **only be invoked for services impacted by country restrictions after 31 January 2021 for next summer**, on which basis coordinators may grant ex post relief of slot usage requirements, i.e. not by restrictions currently in force that restrict the ability to operate and which have not been lifted by the time of the summer season. **This would be harmful for planning the recovery of schedules already impacted by existing measures and appears unnecessarily restrictive. This proposed provision limits the application of Force Majeure beyond the normal application of the Slot Regulation. Constraining the industry further during a crisis is difficult to understand – the industry's recommended approach and definition should be adopted to ensure alignment globally.**

There are practical limitations to the EC's proposal due to current restrictions in place on markets served to/from the EU. Markets with existing restrictions prior to 31 January 2021 would not be eligible for ex post relief and yet the airlines will not be able to use the slots up to the required threshold (40 or 50%). This policy would deprive airlines of the ability to retain those slots unless operating flights with no demand. **With no Force Majeure or full series alleviation this could have bilateral implications: previous season waivers by third countries included clauses for reciprocal treatment.**³

In other words, where there are measures in place that severely restrict consumer ability to travel, many third country carriers will be required to operate flights with no demand just to preserve their access to congested EU airports for future years, or they lose their historic slot rights. EU carriers would be affected in a similar way. For example, it remains to be seen if the United States will lift its travel ban on Schengen area countries by 31 January 2021. Should this not be the case, an EU or US carrier would not be able to invoke Force Majeure for

³ For example, the United States' Federal Aviation Administration only granted slot relief to foreign carriers in the S20 and W20 seasons on the condition that the relief was reciprocated by those carriers' countries.

slots held for flights to the US this coming summer under the EC's proposal. Airlines should be incentivised to plan the return of services to markets currently impacted, not be forced to take risk-averse approaches due to a lack of reasonable understanding of the current measures in place and their anticipated expiry.

The industry recommends that Force Majeure includes restrictions currently in force that severely restrict the ability to operate, as detailed in the [WASB industry recommendation](#).

3. 80/20 for new and exchanged allocated slots (Article 10-a-3-a-a)

The EC proposes to treat newly allocated slots (i.e. new slots that have become available for the season in question) as well as slot exchanges for monetary compensation between carriers differently from historic slots and subject them to the normal 80/20 threshold in S21. The WASB proposal is to treat all slots the same and require all to operate to the same threshold.

The proposal for newly allocated slots may be considered to distort the conditions under which different carriers operate on a level playing field. There is no benefit for any airline or airport, neither consumers of this approach. The reasoning that newly requested slots, or those newly exchanged, were planned in knowledge of the pandemic does not make their operation any easier. The industry proposal balances instead the needs of new and incumbent airlines, safeguards competition and consumer choice, while providing gradual opportunity for new access.

Moreover, the current Regulation does not refer to secondary trading – monetary slot exchanges – and therefore this addition is superfluous to the operation of the Regulation in the EU. Secondary Trading is a specific type of exchange, most common and in practice limited to the UK. Coordinators cannot be privy to highly sensitive, commercial contracts between carriers: they do not have oversight of these arrangements. The coordinator will know of an exchange for the basis of approving the capacity available, not the commercial (if any) terms associated with this. Furthermore, this provides a form of mobility to ensure best use of capacity and should not be restricted in use during a period of crisis recovery.

We recommend the proposal provides for a single slot use threshold for all operators (50/50), when there is no complete waiver from use.

4. New entrant definition (Article 2 (ba))

The airlines support the proposed change to the New Entrant definition set at seven slots as this would now correspond with the industry (airport, airline, slot coordinator) definition in the Worldwide Airport Slot Guidelines (WASG⁴). **However, this should be consistent for all carriers and all routes, the proposal should not differentiate between intra-EU and international routes.**

5. Three-week return deadline (Article 10-a-7)

The proposal is not supported by the industry for the type of relief that is envisioned for S21 (i.e. gradual return of use-it-or-lose-it rule). Under normal usage rules there is no deadline, because the usage allows a proportion of slots to be "non-used". The three-week deadline was only applicable in the conditions related to a **full slot waiver**, i.e. Winter 2020/21 season. It gives no technical or efficiency related advantage to have this condition when the use-it or lose-it rule applies again, even with a reduced threshold, because the spirit of the current Regulation is to return slots as soon as a carrier knows it will not operate them. Furthermore, a three-week

⁴ WASG: The Worldwide Airport Slot Guidelines (WASG) is published by Airports Council International (ACI), the International Air Transport Association (IATA) and the Worldwide Airport Coordinators Group (WWACG) to provide the global air transport community with a single set of standards for the management of airport slots at coordinated airports and of planned operations at facilitated airports.

return deadline is redundant if carriers are able to return full series earlier in the pre-planning phase, as recommended by the WASB. A lot of the cancellations will then have taken place upfront. Carriers will plan to operate – or feel confident of meeting a 50% threshold for - the slots they hold after that.

6. Sanctions (Article 14 (a) – 5)

The industry supports sanctions for wrong doers. Should significant, repeated and intentional offenses occur the Coordinators are asked to sanction the air carriers.

7. Slots of a carrier that ceases operation (Article 14-6-c/)

Airlines encourage this provision be amended given the coordinators already have power to monitor and withdraw series of slots and place the series of slots in question in the pool for the remainder of the scheduling period, after having heard the air carrier concerned if the slots allocated are not being used anymore. As the Staff Working Document⁵ accompanying the EC proposal recognizes: If an airline fails to provide necessary information on its plans for a certain airport by a reasonable deadline set by the coordinator, and after having heard the airline concerned, the coordinator may withdraw and reallocate the slots. This wording and process should be reflected in the text of the EC proposal itself.

8. Coordination parameters (Article 8-6-a/)

Any change to an air carrier's slots must be made through communication with the coordinator and airline concerned, based on parameters presented at the Coordination Committee. This maintains alignment with the global industry agreement for managing temporary changes in airport capacity during COVID-19.⁶

9. Priority for future allocation of slots: process of slot allocation (Article 8-2-a)

Recognising the period of operation is a criterion for the future allocation of slots in existing guidelines, airlines would suggest five weeks should not be an overriding factor that exceeds other criteria. Under normal circumstances a carrier would be granted slots according to the series operated and can request the next equivalent season for the extended series subject to available capacity. Fragmentation, i.e. operating short periods of the season, which occurs as a result of less than full season slot series, is a feature of highly constrained airports with specific market demand, such as summer leisure traffic. The WASG details that when there are competing requests for slots, coordinators should not simply allocate the remaining slots pro-rata among all requesting airlines. Instead, consideration should be given to a number of factors (in no particular order) to determine which of the competing requests should be allocated a slot, this includes:

- Effective Period of Operation: Whether an airline's schedule will be effective for a longer period of operation in the same season than other competing requests.

10. Delegated Act

The industry suggests that a delegated act setting the revised usage thresholds shall be adopted no later than **31 December** for the following summer scheduling period, and no later than **31 July** for the following winter

⁵ SWD(2020) 341 final, page 3-4: "The waiver will not apply to series of slots of an airline that permanently ceases operations at an airport¹⁰. An airline that ceases operations at an airport must immediately return all the slots allocated to it for the remainder of the season and for the next season (if already allocated) and advise the coordinator whether or not it will use the slots in the future. If an airline fails to provide necessary information on its plans for a certain airport by a reasonable deadline date set by the coordinator, then the coordinator may withdraw and reallocate the slots after having heard the airline concerned."

⁶ For further details, please see: <https://www.iata.org/contentassets/4820c05b19f148e2855db91f2a579369/wasb-airport-capacity-declaration-and-temporary-changes-in-capacity-due-to-covid-19.pdf>

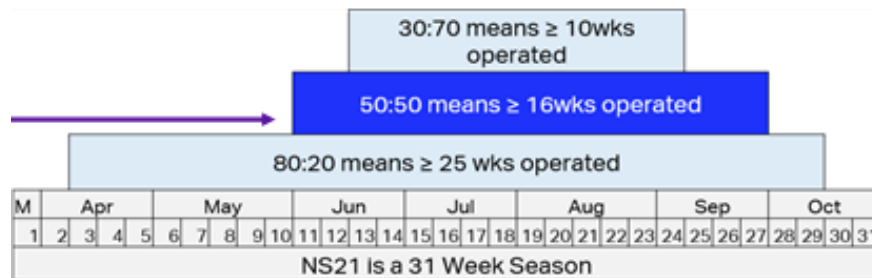


scheduling period, since industry slot decisions are made in January and August respectively for the upcoming seasons, and therefore the Commission must provide planning certainty prior to this.

Appendix One

Comparison of Use it or Lose it Ratio with number of weeks required to operate

Typical operational and planning requirements of different slot use ratios



Pushing capacity to the Q3 period



UIOLI Ratio	# of series weeks (based upon full season series)	# of slots that may be returned	Threshold # of slots that must be operated to retain historic precedence	Equivalent period of airline schedule planning
20/80	31	24	7	Jul-Aug
25/75	31	23	8	
30/70	31	21	10	Jun-Aug
35/65	31	20	11	
40/60	31	18	13	Jun-Aug
45/55	31	17	14	
50/50	31	15	16	May-Aug/Jun-Sept
55/45	31	13	18	
60/40	31	12	19	
65/35	31	10	21	
70/30	31	9	22	
75/25	31	7	24	
80/20	31	6	25	

Appendix Two

Comparison of proposals for Northern Summer 2021 (S21) slot use rules by EC and the joint industry proposal by the Worldwide Airport Slot Board.

EC proposal	Joint Industry Proposal (ACI, IATA, EUACA) - WASB	Disadvantages of the EC proposal and unintended outcomes	Advantages of the Joint Industry Proposal
40-60 Use it or Lose it threshold	50-50 Use it or lose it threshold	<p>The 40-60 threshold only works combined with the WASB approach for full series alleviation.</p> <p>Relief through a reduced threshold only, is not sustainable for the recovery in S21.</p> <p>Fragmentation</p> <ul style="list-style-type: none"> ▪ Lower threshold only will disadvantage passengers, airports and airlines through fragmented schedules. ▪ Airlines will be forced to meet the threshold on each slot series across multiple frequencies and in the face of reduced demand (instead of fully operating some frequencies and cancelling others completely). <p>No incentive to return full series will reduce possibilities for reallocation</p> <ul style="list-style-type: none"> ▪ Lack of availability of full series to reallocate will disadvantage new airlines and airports wishing to start new services (flights), as well as the ability to 'mobilize' the slot pool for retiming of existing services (flights) 	<p>50-50 threshold balances the restart of existing services while facilitating new services:</p> <ul style="list-style-type: none"> ▪ 50% may be achievable alongside other agreed relief measures ▪ 50% requires 16 weeks of operations (out of 31) that could be focused on the peak northern summer period – Jun-Sep ▪ Failing to operate 50% provides future access opportunities through slots that are placed back in the pool for S22 allocation.
Slot return deadline three weeks prior to operation	No rolling in-season deadline for returning slots not planned to be operated	<p>The slot return deadline can only work with a full waiver of usage requirements, otherwise it jeopardizes the airlines' ability to plan sustainable operations and eliminates certainty both for airports and airlines.</p> <p>Added burden to airline planning considering demand presenting far later than pre-COVID – typically over 60% of bookings are made within 10 days of flight. Returns at three weeks with no alleviation of usage requirements does not make sense. This condition was appropriate with a slot waiver applicable within the operating season.</p>	<p>No deadline required as the use-it or lose-it threshold is the standard EC Slot Regulation / WASG approach to 'penalize' for nonuse.</p>

EC proposal	Joint Industry Proposal (ACI, IATA, EUACA) - WASB	Disadvantages of the EC proposal and unintended outcomes	Advantages of the Joint Industry Proposal
		Advance returns not required in normal circumstances so why make it harder to plan operations and retain slots in crisis?	
	Full series⁷ slots returned by HBD +7deadline (8 Feb) – full alleviation on use.	<p>EC proposal offers limited alleviation of slots – i.e. every series individually must be operated at least 40% of the period allocation/season.</p> <ul style="list-style-type: none"> ▪ Without full series returns in the planning phase (pre-season) existing and new airlines have little opportunity to plan retimed or new services. ▪ Industry proposal facilitates entry by providing the new entrant airlines with full series of slots from the slot pool whereas EC does not. 	<p>The joint industry proposal provides alleviation from use for the slot series returned by an industry set deadline (globally):</p> <p>Preserves slots that cannot be operated this Summer but that are vital for the network, connecting banks of traffic.</p> <ul style="list-style-type: none"> ▪ Allows sustainable schedules to be planned with certainty and without jeopardizing intra-European and global connectivity. ▪ Full series returns allow reallocation to new and existing airlines on ad hoc basis ▪ Retiming of existing slots facilitated by full series returns (larger slot pool available early to make changes) ▪ Ad hoc entry facilitated by full series (season) slots

⁷ A 'series' of slots is at least five weeks of slots allocated at the same time on the same day of week, only series of slots are eligible for historic precedence. Typically, many series will be full season, 31 week allocations for summer.

⁸ Comments on the European Commission's proposal for further slot relief

EC proposal

Joint Industry Proposal (ACI, IATA, EUACA) - WASB

Disadvantages of the EC proposal and unintended outcomes

Advantages of the Joint Industry Proposal

- Airlines can reapply for ad hoc slots should demand warrant additional flying
- Safeguards hub structures and routes invested in by airports and airlines
- Planning improvements for airlines and airports with earlier knowledge of schedule plans assisting in managing costs and service provision.

New slots not eligible for the lower threshold – i.e. new slots measured against normal 80-20 rule

New slots are eligible for the lower threshold – i.e. all slots required to be operated to same 50-50 threshold

There is no benefit for any airline or airport **especially for new entrants or new operations for incumbents. New slots are fundamental for new entrants to enter in a market and for incumbents to build operations during S21. Given the much lower demand levels projected in 2021, if the airlines are required to operate the new slots at least 80%, they will be required to add additional costs, through excess operations, beyond a sustainable level. This would likely result in new airlines having less opportunity to keep them for the next season than those operated to the lower threshold.**

Newly allocated slots are put at a level playing field with incumbent slots.

The proposal **balances the needs of new and incumbent airlines, safeguards competition and consumer choice, while providing gradual opportunity for new access.**

The reasoning that newly requested slots were planned in knowledge of the pandemic does not make their operation any easier.

Newly exchanged slots for monetary compensation not eligible for the lower threshold

New slot trade arrangements are not eligible for full season alleviation (this does not include continuation or unwinding of existing slot trade arrangements),

Excluding slots exchanged for monetary compensation discourages **slot mobility and places more uncertainty on the airlines' planning.**

Furthermore, the use of transfers and trades is a beneficial practice, where it is allowed such as the UK, for managing slot portfolios to aid recovery, **disabling this will only serve to further damage an ailing industry.**

The EU Regulation does not prohibit slot trades explicitly but neither does it legislate for this unique arrangement. Exchanges and transfers currently allowed in EU countries **should continue where they are not prohibited by the laws of the relevant country as per WASG 8.11.5.**

EC proposal	Joint Industry Proposal (ACI, IATA, EUACA) - WASB	Disadvantages of the EC proposal and unintended outcomes	Advantages of the Joint Industry Proposal
	<p>but are eligible for other slot relief measures.</p>		<p>The transfer of historic slots is a form of slot use and should be treated equally to other forms of historic slot usage, this is a fundamental principle of the Worldwide Airport Slot Guidelines, which are jointly published by ACI, IATA and WWACG.</p>
<p>Force Majeure</p>	<p>Force Majeure (Justified Non-Use of Slots - JNUS)</p>	<p>The EC proposal should include the industry agreed criteria for Force Majeure (or JNUS) to provide airlines and airports with certainty in advance and allow coordinators to apply a consistent approach globally. Both current (if not removed before 31 Jan) and future restrictions should be covered to allow all services to be planned with anticipation of borders reopening, restrictions being removed and testing protocols to have an impact on ease of travel. Restricting justified non-use of slots to only markets newly restricted after 31 January 2021 will not support the recovery of vital connectivity and schedule planning for restarting operations.</p>	<p>The WASB recommends all the following apply as justified non-use of slots during the season regardless of the market restriction in place during the planning phase:</p> <ol style="list-style-type: none"> 1. Government travel restrictions based on nationality, closed borders, government advisories related to COVID-19 that warn against all but essential travel, or complete bans on flights from/to certain countries or geographic areas. 2. Severe government restrictions related to COVID-19 on the maximum number of arriving or departing passengers on a specific flight or through a specific airport. 3. Government restrictions on movement or quarantine/isolation measures within the country or region where the airport or destination (including intermediate points) is. 4. Government-imposed closure of businesses essential to support

EC proposal**Joint Industry Proposal (ACI, IATA, EUACA) - WASB****Disadvantages of the EC proposal and unintended outcomes****Advantages of the Joint Industry Proposal**

aviation activities (e.g. closure of hotels).

5. Unforeseeable restrictions on airline crew, including sudden bans on entry or crew stranded in unexpected locations due to quarantine measures
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