BRUSSELS AIR TRANSPORT BRIEF: MARCH 2019

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European Regulatory Newsletter

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AVIATION REGULATORY AND POLICY

Air Traffic Magement: European Commission lays down detailed rules for the implementation of air traffic management (ATM) network functions

On 24 January 2019, the European Commission adopted Commission Implementing Regulation (EU) 2019/123 laying down detailed rules for the implementation of air traffic management network functions. The Regulation notably provides for the appointment of a body as Network Manager by the Commission. As such, the Network Manager will have the function to support the execution of the network functions and, amongst others, develop, organise and provide an integrated European Route Network Design function, coordinate the air traffic flow and capacity management and coordinate mitigating measures at local, regional and network level to secure a timely response to future crisis situations affecting aviation.

Environment: Environmental report points to action to address sustainability and health challenges

On 24 January 2019, the European Commission received the second European Aviation Environmental Report published by the European Aviation Safety Agency in close collaboration with the European Environment Agency and Eurocontrol. The Report underlines how the current measures implemented at EU level enable improvements to the sustainability of aviation in the continent, however these will have to be adapted to the increase of air traffic set to come in the coming years.

Aviation Safety: EASA publishes the European Plan for Aviation Safety for 2019-2023

On 15 January 2019, EASA published the

8th edition of the European Plan for Aviation Safety

, setting out the strategic and operational priorities for 2023 on safety and environmental protection. Aircraft upset in flight (loss of control), and runway excursions, incursions and collisions are some of the most important risk areas singled out by EASA. The safety priorities are based on data and information continuously gathered and updated at European level.

Aviation Security: European Commission adopts new measures strengthening aviation security rules

On 1 February 2019,

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Commission Implementing Regulation (EU) 2019/103

entered into force. The measures therein are aimed at further improving aviation security in the EU. The measures envisaged by this legislation include background checks for aviation personnel which will contribute to the prevention of insider threats.

IATA 2018 Reports: Air Freight Demand and Passenger Demand

On 6 and 7 February 2019, the International Air Transport Association (IATA) released the global 2018 data for air freight and passenger demand. According to IATA's data, air freight demand (measured in freight tonne kilometers (FTKs)) grew by 3.5% in 2018 compared to 2017, whereas passenger demand rose by 6.5%.

Aviation Safety: IATA Release 2018 Airline Safety Performance

On 21 February 2019, IATA released data concerning the safety performance of the commercial airline industry in 2018. These data show that there are continuing safety improvements over the long term, as 4.3 billion passenger flew safely on 46.1 million flights. The data also showed an increase in accidents compared to 2017.

Single European Sky: Adoption of Commission implementing regulation laying down a performance and charging scheme

On 11 February 2019, the European Commission adopted Commssion Implementing Regulation (EU) 2019/317 laying down a performance and charging scheme in the single European sky and repealing Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013. This implementing Regulation is a revision of the implementing rules governing the performance and charging schemes contained in Commission Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013. The performance and charging schemes aim to enhance the performance of air navigation services and, for their implementation and to ensure safety, the Commission and Member States will coordinate with EASA.

Transport Security: 1st Transport Cybersecurity Conference Report

The conference was organised by the European Union Agency for Network and Information Security (ENISA), the EU cybersecurity Agency, and took place on 24 January 2019. Following the event, a joint conclusion document was released. In this document the transport sector stresses the importance to closely follow the NIS Directive implementation, develop cyber-skills, continue cyber dialogues with third countries and cooperate with international organizations.

EU Aerospace Sector: European and Social Committee opinion published in the Official Journal of the EU

On 15 February 2019, the opinion of the European Economic and Social Committee on Challenges and Industrial Change in the EU Aerospace Sector has been published in the Official Journal of the European Union. Among others, the opinion urges relevant stakeholders to develop an EU industrial policy to allow the EU aeronautical industry to compete on a level playing-field with global competitors and establish an aeronautics watchtower at EU level. Moreover, the Committee underlines that a stronger international role for EASA is key for the EU aeronautical industry.

European Parliament: Transport and Tourism Committee work in progress

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On 04 February 2019, the European Parliament's Committee on Transport and Tourism (TRAN Committee) has published its regularly updated

work in progress

schedule showing the following developments for air transport that require a first reading by the European Parliament:

- Proposal for a Regulation of the European Parliament and of the Council establishing a Union certification system for aviation security screening equipment;
- Proposal for a Regulation amending Regulation (EC) No 1008/2008 on common rules for the operation of air services;
- Proposal for a Regulation on competition in air transport, repealing Regulation (EC) No 868/2004;
- Proposal for a Regulation of the European Parliament and of the Council on common rules ensuring basic air connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union; and
- Proposal for a Regulation of the European Parliament and of the Council on certain aspects of aviation safety with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union.

ANTITRUST AND COMPETITION

Merger: European Commission approves acquisition of joint control over Virgin Atlantic by Air-France-KLM, Delta and Virgin Group

On 12 February 2019, the European Commission approved, under the EU Merger Regulation, the proposed acquisition of joint control over Virgin Atlantic by Air France-KLM, Delta and Virgin Group. The Commission investigated the impact of the transaction on the market for (i) air transport of passengers (ii) cargo air transport services and (iii) maintenance, repair and overhaul services. As regards the air transport of passengers, the Commission found that none of the overlapping routes raises competition concerns despite a small number of routes with high combined market shares, and that the increase in their combined slot portfolio is unlikely to have a negative effect on passengers. As regards the cargo air transport markets, the transaction is unlikely to raise competition concerns notably because Air France-KLM, Delta and Virgin Atlantic are not close competitors and continue to face strong competition on the affected cargo routes. Finally, as regards maintenance, repair and overhaul services, the transaction does not raise any competition concerns because of its limited impact on these market.

State Aid: Commission approved restructuring aid by Italy to Aerdorica

On 22 February 2019, the European Commission approved the grant of a €25 million restructuring aid from Italy to Aerdorica S.p.A., under EU State aid rules. Aerdorica, currently undergoing insolvency proceedings, is the operator of "Aeroporto delle Marche", currently employing 100 people, and providing services to passengers,

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airlines, cargo, business partners and airport operators. Pursuant to the Commission's 2014 Guidelines on the rescue and restructuring of non-financial companies, in order to restore long-term viability, companies under financial distress can receive State aid if based on clear conditions and on the presentation of a sound restructuring plan. The €25 million aid will be funded both by public funds and a private investor, the latter showing market trust in the company. As part of the compensatory measures, Aerdorica will outsource its groundhandling operations.

AIR TRAVEL - PASSENGERS' RIGHTS

Passengers' Rights: Passengers urge the Commission to investigate large airlines' distribution practices

On 17 January 2019, the European Passengers' Federation (EPF) urged the European Commission to take action to safeguard access to transparent, comprehensive and unbiased information for passengers buying tickets and travel services. In particular, EPF wants the Commission to investigate the effect of consolidation in the air carrier market on ticket distribution and whether large airlines may be abusing their dominant position. According to the EPF announcement, the concerns raised are threefold: (i) German airline Lufthansa engaging in discriminatory and exclusionary practices against independent ticket distributors, including global distribution systems and their travel agency users; (ii) the EPF called for the full exploitation and expansion of the scope of the EU legislation regulating computerised reservation systems so as to cover also multimodal computerised systems and rail-only or coach services in addition to the air or air-rail travel; and (iii) the need for a clear definition of the terms "basic travel product" or "ancillary service" necessary for computerised reservation systems to comply with the requirement of displaying any taxes, charges and surcharges that are "unavoidable and unforeseeable".

INTERNATIONAL TRADE - BREXIT

International trade: Africa-Europe Alliance, Transport task force to boost air transport partnership

On 24 January 2019, the transport task force on aviation held its first meeting in Brussels on the new Africa-Europe Alliance. The topics discussed during the meeting related to the close collaboration between the two continents on topics such as aviation safety, security and environmental protection, aiming at the creation of a common African aviation market that will prioritize job creation, sustainable investment and environmental protection but also ensure road safety and better transport connectivity and improved air traffic management. The transport task force is comprised of African and European stakeholders from the aviation sector and is one of the task forces set up in different areas to help deliver the goals of the Africa-Europe Alliance and to deepen cooperation and propose a series of concrete collaborative projects in strategic areas. The transport task force will work until June 2019 to provide recommendations on Africa-Europe cooperation in the area of transport and will also promote high-level political support for its proposals.

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Brexit: Regulation regarding aircraft operators for which the UK is specified as administering Member State

On 12 February 2019, the Official Journal of the European Union published Regulation (EU) 2019/225 of 6 February 2019 amending Regulation (EC) No 748/2009 as regards the aircraft operators for which the UK is currently specified as administering Member State. The withdrawal of the UK from the EU would, in the absence of any special provisions, have the effect that the UK could no longer be considered an administering Member State. As a result, it was necessary for the EU to amend the Annex to Regulation (EC) No 748/2009 in order to specify the new administering Member States for those aircraft operators, in the event that no withdrawal agreement is concluded with the UK.

Brexit: IATA Statement on the Aviation future in case of a No Deal

On 15 January 2019, the International Air Transport Association (IATA) published a statement underlining that despite the negative vote of the UK Parliament on the UK-EU Brexit agreement most passenger flights will go ahead, i.e. the current flight levels between the EU and the UK will be maintained. However a no deal Brexit puts at risk the future increase in the number of flights to meet consumer demand, especially during the upcoming summer period. It is therefore essential that the EU and the UK find a solution that guarantees certainty both to airlines intending to grow in placing millions of extra seats, but also to consumers planning to travel between the UK and the EU for business trips and holidays after March 29.

Brexit: UK amends law on aircraft slot allocation ahead of Brexit

In January 2019, the UK government proposed amendments to national rules on airport slot allocation ahead of Brexit. The amendments under the EU (Withdrawal) Act do not fundamentally change the substance of the slot allocation rules however, the exercise of powers over the operation and enforcement of those rules lies with the UK Government instead of the European Commission In addition, the UK will no longer be obliged to comply with EU guidelines on the operation of slots, but instead can take into account guidelines set by non-EU bodies.

Basic air connectivity in the event of no-deal Brexit

On 19 February 2019, the Romanian presidency reached a provisional agreement with the European Parliament for a Regulation regarding measures to be adopted in order to reduce major disruptions to air transport between the EU and the UK in a no deal scenario. The agreement will allow carriers licensed in the UK to provide basic air transport services between the UK and the EU and provides for the right to continue to offer scheduled flights under public service obligations for 7 months. Moreover, if an air carrier holding an EU-issued operating licence ceases to comply with EU ownership and control requirements as a result of Brexit, it will have 6 months to fully meet said requirements. The regulation still needs to be formally adopted by both Parliament and the Council. It would apply until an air transport agreement with the UK enters into force or until 30 March 2020, whichever is sooner.

PUBLIC CONSULTATIONS AND EVENTS

Legal Symposium 2019

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IATA's annual Legal Symposium event for in-house cousel, private practitioners, regulators and policymakers and media returns and will tackle topics including, inter alia, digital transformation, liability, sustainability and antitrust. The symposium took place on 6-8 March in Rome (Italy)

Groundhandling Conference

At EASA's "Groundhandling Conference" the roadmap for the future groundhandling projects will be discussed, following the entry into force of Regulation (EU) 2018/1139. The event will be an opportunity fort the actors in the sector to discuss the implementation of the roadmap. The conference took place on 7 March in Cologne (Germany).

World ATM Congress

For the seventh consecutive year, the Civil Air Navigation Services Organisation (CANSO) partnership with the Air Traffic Control Association (ATCA) will host the "World ATM Congress 2019". This congress is aimed at providing insight in key issues in the Air Traffic Management industry and experience in the latest products and innovation in the sector. The conference took place on 12-14 March in Madrid (Spain).

Europe for Aviation

European aviation organisations are called to participate to "Europe for Aviation" in the framework of the World ATM Congress. At this conference, the discussion will mainly focus on how collaboration between European aviation organisations (civil and military) can help with the growth of the industry and in tackling challenges, such as air traffic delays and congestion, drone integration, digital transformation and cyber security. The conference took place on 12-14 March 2019 in Madrid (Spain).

IATA/AACO MENA Aeropolitical Forum

IATA, in collaboration with the Arab Air Carriers Organization (AACO), will hold its joint MENA Aeropolitical Forum aimed at sheding light on the challenges facing the MENA air transport market. The theme of the event is "Maintaining the Competitive Position of the MENA Air Transport Market in a Rapidly Changing World". The conference will take place on 26 March in Beirut (Lebanon).

Drones Innovation Weekend

IATA will host the "Drones Innovation Weekend" for innovators, corporate developers and aerospace enthusiasts aimed at developing a proof-of-concept for the safe operation and business impact of drones in aviation. The conference will take place on 30-31 March in Barcelona (Spain).

Transport Research Arena 2020

The Finnish Ministry of Transport and Communications, Finnish Transport and Communications Agency, Finnish Transport Infrastructure Agency and the European Commission together with the European Technology Platforms and CEDR will host the Transport Research Arena 2020 conference. The theme of the conference is "rethinking transport - towards clean and inclusive mobility". The conference will take place on 27-30 April 2019 in Helsinki (Finland).

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