BRUSSELS AIR TRANSPORT BRIEF: APRIL 2019

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European Regulatory Newsletter

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AVIATION REGULATORY AND POLICY

Report: European Commission sets out action to strengthen social standards

On 1 March 2019, the European Commission published a report setting out actions strengthening the social agenda in air transport. This report highlights the main opportunities and challenges faced by pilots and cabin crews in Europe and aims at improving legal certainty by providing clarifications on their protection under EU law.

Aviation safety: EASA suspends all Boeing 737 Max operations in Europe

On 12 March 2019, following the tragic accident of Ethiopian Airlines flight ET302, the European Aviation Safety Agency ("EASA"), as a precautionary measure, suspended all flight operations involving Boeing Model 737-8 MAX and 737-9 MAX in Europe, performed by third-country operators.

Groundhandling safety: EASA Cologne conference report

On 7 March 2019, the first EASA Conference on Groundhandling was held in Cologne. The aim of this conference is to set the way for a European grounhandling roadmap and to assist EASA in the development of a European approach to safety in groundhandling.

Aviation safety: EASA report on "Effectiveness Time Limitation"

On 1 March 2019, EASA published the results of the initial phase of a large European-wide scientific study in the field of Flight Time Limitations. These results show that high fatigue can be prevented by enhancing mitigation measures concerning flight and duty time limitations and rest requirements, as prescriptive limits alone are insufficient. Based on these conclusions, six recommendations were made to further fatigue measures.

Drones: one step closer to harmonised rules for safe drone operations in Europe

On 12 March 2019, following the positive vote of the EASA Committee on 28 February 2019, the European Commission has adopted common EU-wide rules setting technical requirements for drones. These requirements will be necessary for drones to fly safely and to help foster innovation. The requirements, based on pre-existing national rules, provide now an harmonized framework.

Aircrew Regulation: EASA publishes Easy Access Rules for Aircrew

On 11 March 2019, EASA published the Easy Access Rules for Aircrew (Regulation (EU) 1178/2011). The Easy Access Rules aim at displaying civil aviation aircrew's technical requirements and administrative procedures in a consolidated, easy-to-read format and freely available.

E-freight: The European Parliament formalized its position on the e-freight proposal

On 12 March 2019 the Plenary of the European Parliament adopted the legislative report on electronic freight transport information by an overwhelming majority. The e-freight proposal was presented in May 2018 with the objective to increase acceptance and use of electronic transport documents. The report will represent the Parliament's position during interinstitutional negotiations with the Council ('trilogues'), which is still discussing the proposal internally.

Use of airspace: Commission calls on Belgium to comply with rules on the flexible use of airspace

On 7 March 2019 the Commission sent a reasoned opinion (a formal request to comply with EU law) to Belgium for failing to comply with the EU Regulation laying down common rules for the flexible use of airspace. The Regulation aims at coordinating cooperation between civil and military entities responsible for air traffic management in order to increase safety and airspace capacity within the EU. In this context, Member States are required to establish an Airspace Management Cell ("AMC") to allocate strategic airspace in accordance with the procedures set out in the Regulation. Belgium has yet to establish an AMC and was given two months to inform the Commission of the measures that would remedy this situation.

Air transport: Proposal for a Regulation of the European Parliament and of the Council on safeguarding competition in air transport

On 14 March 2019, the European Parliament endorsed the inter-institutional agreement reached with the Council of the EU on a Regulation on safeguarding competition in air transport. The new rules aim at ensuring fair competition between EU air carriers and third country air carriers and that EU's connectivity is safeguarded. They empower the European Commission to start investigations and adopt redressive measures when practices distorting competition, adopted by a third-country, causing, or threatening to cause, injury to an EU air carrier take place. The Commission can start the investigation on its own initiative or on the basis of a written complaint lodged by a Member State, an EU air carrier or an association of EU air carriers. If the investigation determines that the practice distorting competition has caused a threat of injury, the Commission can impose redressive measures on the third-country air carriers benefitting from the practice distorting competition. Redressive measures can take the form of financial duties or of operational measures of equivalent or lesser value (such as the suspension of concessions, of services owed or of other rights of the third-country air carrier).

IATA reports: Passenger and Air Freight January 2019

On 7 March, the International Air Transport Association ("IATA") announced the global passenger results and global freight air freight markets results? for January 2019. The results show that the global air freight markets, measured in freight ton kilometers (FTKs), decreased 1.8% compared to January 2018. On the other hand, passenger traffic rose 6.5% compared to the same period in 2018.

Air Cargo: IATA calls governments on three priorities

During the 13th World Cargo Symposium, in order to accommodate the expanding demand for air cargo, IATA called on governments to focus on the following three priorities: accelerating the speed of process modernization; implementing and enforcing global standards; and keeping borders open to trade. Fulfilling these priorities will be crucial to keep up with the challenges posed by the growing air cargo market.

Air Cargo: IATA launches new industry certification CEIV Fresh

On 12 March 2019, IATA has launched the Center for Excellence for Perisheable Logistics ("CEIV"). This new certification, in view of the growing air cargo market, is aimed at improving the handling and transport of perishable products. The CEIV program was first organized by the Airport Authority Hong Kong (AAHK), Cathay Pacific, Cathay Pacific Services Limited (CPSL) and Hong Kong Air Cargo Terminals Limited (HACTL).

European Commission: Report on Current Trends and Issues in Transport

The European Commission published a Report on Current Issues and Trends in Transport in the EU. The report lays down an outline of the performance of EU Member States towards challenges in certain key policy areas relating to transport, such as the sub-optimal functioning of the transport market, infrastructure deficiencies, low-emission mobility and negative externalities. The report further identifies a number of policy strategies that help address the threats stemming from climate change as well as from global socio-economic and technological developments, e.g. capacity crunch, collaborative economy, digitalization, big data, increasingly complex business structures/supply chains and the shift to a circular economy. Finally, the report presents an overview of the current policy state of play in various transport sectors with regard to each individual EU Member State.

European Parliament: Work in progress of the Transport and Tourism Committee

On 5 March 2019, the European Parliament's Committee on Transport and Tourism (TRAN Committee) has published its work in progress schedule showing the following developments for air transport:

Requiring 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.

Adopted by the European Parliament in first reading and awaiting Council's position

- Common rules for the allocation of slots at EU airports (recast),

- Proposal for a regulation on the implementation of the Single European Sky (recast),

- Proposal for a Regulation amending Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air and

- Proposal for a regulation amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services.

ANTITRUST AND COMPETITION

Merger: European Commission clears the acquisition of StandardAero by The Carlyle Group

On 28 February 2019, the European Commission approved, under the EU Merger Regulation, the acquisition of sole control over StandardAero Holding Corp. ("StandardAero") by The Carlyle Group L.P. StandardAero is an independent provider of maintenance, repair and overhaul services ("MRO"), active in aircraft engine and component maintenance and also manufactures spare parts for aircraft engines. The Carlyle Group is a global alternative asset manager whose portfolio companies include Chromalloy and Dynamic Precision Group, both active in component maintenance for aircraft engines and in the manufacturing of spare parts for engines. The Commission concluded that the proposed transaction would raise no competition concerns given the minor horizontal and vertical overlaps between the companies' activities (decision published).

Merger: Commission clears the acquisition of Esterline by TransDigm

On 11 March 2019, the European Commission approved, under the EU Merger Regulation, the acquisition of Esterline Technologies ("Esterline") by TransDigm Group. Esterline is active in the design, manufacture and marketing of highly engineered products, principally for aerospace and defense customers. TransDigm' activities include the design, production and supply of engineered aerospace components, systems and subsystems for use on both commercial and military aircrafts. The Commission concluded that the proposed acquisition would raise no competition concerns, because there are only minimal horizontal and vertical overlaps between the activities of the companies and, where these activities overlap, sufficient alternatives will remain following the transaction (decision not yet published).

Merger: Commission clears the acquisition of Gatwick Airport by VINCI Airports

On 15 March 2019, the European Commission approved, under the EU Merger Regulation, the acquisition of Ivy Topco Limited, a holding company which indirectly controls Gatwick Airport Limited, by VINCI Airports, subsidiary of VINCI. Gatwick Airport Limited owns and operates Gatwick airport, and VINCI Airports manages and operates airport throughout the world, all located outside the UK. The Commission concluded that the proposed acquisition would raise no competition concerns, given the limited overlaps between the companies' commercial activities (decision not yet published).

Merger: Commission clears the acquisition of Asco by Spirit, subject to conditions

On 20 March 2019, the European Commission approved, under the EU Merger Regulation, the acquisition of Asco by Spirt. Spirit and Asco are companies active in the aerospace equipment industry, supplying aerostructures to aircraft manufacturers. The Commission concluded that the proposed acquisition would raise no competition concerns regarding the vertical supply relationships or horizontal overlaps in the same market. However, the Commission was concerned that the originally proposed acquisition would significantly reduce competition in the worldwide market for the supply of slat systems and for slats in general, given Asco's

participation, alongside Sonaca and BMT Eurair, in the Belairbus JV. The Belairbus JV is active in the development and production of slat systems and Sonaca is a leading supplier of slats and the only competitor of Spirit in this market. By acquiring Asco, Spirit would have become a shareholder in the JV alongside its sole competitor, Sonaca. The remedies proposed by the parties, whereby Spirit will permanently eliminate its role as commercial and technical platform for negotiations with the JV's main client and by committing to destroying all sensitive information of Sonaca held by Asco, the Commission concluded that the proposed acquisition would not longer raise competition concerns (decision not yet published).

Merger: Commission approves acquisition of Jardline Lloyd Thompson by Marsh & McLennan Companies, subject to conditions

On 22 March, the European Commission approved, under the EU Merger Regulation, the acquisition of Jardine Lloyd Thompson ("JLT") by Marsh & McLennan Companies ("MMC"). JLT and MMC are two of the most significant players in the global insurance brokerage market, specialized in assisting clients in securing suitable cover for large and complex insurance risks in specialty sectors, such as aviation. The Commission was concerned that the transaction as originally notified would have significantly reduced competition in the insurance brokerage markets for the specialties of Aircraft Operators and Aerospace Manufacturing, markets with high barriers to entry. To address the Commission's competition concerns, the companies offered to divest JLT's global Aerospace practice to a suitable buyer. This practice includes all of JLT's activities in Aircraft Operators, Aerospace Manufacturing and Space, as well as a separate, standalone Aviation division. The Commission concluded that the proposed transaction as modified by the commitments could no longer raise competition concerns (decision not yet published).

AIR TRAVEL - PASSENGERS' RIGHTS

Air travel: Summertime management measures

During this year's Network Manager User Forum of Eurocontrol, over 200 operational stakeholders gathered to discuss how to best manage summer 2019. Airspace Operators, airports, air navigation service providers and the Network Manager Operation Centre looked at the impact of delayed flights on busy airports, as well as the impact of volatile traffic predictions on air traffic control and on flight plan management. The takeaway points of the discussion were the following: to deliver enhanced network measures, focusing on a cooperative network approach; to better manage the weather; to follow the Network Manager Operation Centre's advice; and to increase collaboration within the network.

INTERNATIONAL TRADE - BREXIT

International trade: EU and Qatar reach aviation agreement

On 4 March 2019, the EU and Qatar initialed an aviation agreement, the first such agreement between the EU and a country from the Gulf region. The agreement will gradually open the market to those EU Member States which have not yet fully liberalized direct connections for passengers (Italy, France, Belgium, Germany and the Netherlands) and set a number of provisions on fair competition and enforcement mechanisms to avoid

distortions and abuses that could negatively impact the operations of EU airlines. The agreement also provides for transparency rules in line with international reporting and accounting standards and commits both parties to improve social and labor policies. A forum for future cooperation to address several aviation issues, such as security and air traffic management, plus a dispute resolution mechanisms will be established. Furthermore, EU airlines will be freed from existing obligations to work through a local sponsor, facilitating business transactions. Following their respective internal procedures, the parties will now prepare the signature of the agreement after which the agreement will enter into force.

International Trade: Commission reviews relations with China, proposes 10 actions

On 12 March 2019, the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy adopted a Joint Communication proposing 10 actions aiming to foster a more balanced and reciprocal economic relationship between the two economies. Among other issues tackled, the EU calls on China to deliver on existing joint EU-China commitments. This would mean a reform of the World Trade Organisation, in particular on subsidies and forced technology transfers, as well as the conclusion of bilateral agreements on investment by 2020, on geographical indications swiftly, and on aviation safety in the coming weeks. On 21 March 2019, the EU leaders discussed the priorities set out in the Communication while preparing the EU - China Summit to be held on 9 April 2019 in Brussels.

Brexit: Commission prepares for a no-deal scenario

On 25 March 2019, the European Parliament and the Council of the European Union, based on the European Commission's proposal, have issued two Regulations (Regulation (EU) 2019/494 and Regulation (EU) 2019/502) in preparation for a no-deal Brexit on 12 April. These measures are primarily aimed at (i) ensuring basic air connectivity in order to avoid a full interruption of air traffic between the EU and the UK; and (ii) maintaining air safety by extending the validity of certain aviation safety certificates. These Regulations will enter into force only in case a withdrawal agreement between the EU and the UK will not be concluded.

PUBLIC CONSULTATIONS AND EVENTS

Call for applications: experts in performance and economic regulation of air navigation services

On 15 March 2019, the European Commission launched a call for applications for experts to become new members of the Performance Review Body for air navigation services as of June 2019. Applicants can submit their applications by 30 April 2019.

Public Consultation: Consulting stakeholders on the draft Performance Review Report (PRR) 2018

The Performance Review Report ("PRR"), produced by EUROCONTROL's independent Performance Review Commission provides an assessment of European Air Traffic Management performance in all EUROCONTROL's 41 Member States. The PRR covers the key performance areas of Safety, Capacity, Environment and Cost-Efficiency, to help stakeholders focus their attention on achievable performance gains. As consultation with stakeholders is key, all stakeholders are invited to send their comments no later than 12 April 2019.

Events: EASA Production and Continuing Airworthiness Technical Body

The first meeting of 2019 of the Production and Continuing Airworthiness Technical Body, open only to members/observers and alternates of the Production and Continuing Airworthiness Technical Body, will take place in Cologne on 9 April 2019.

Events: ICNS Conference 2019

This year's Integrated Communications, Navigation and Surveillance ("ICNS") Conference will bring together leaders from government, industry and academia as well as senior technical experts to address important policy issues and discuss the future directions of CNS and Air Transport Management. The theme of the conference is "Enabling Future Flight through Evolving ICNS Technologies", which will examine emerging terrestrial and satellite-based CNS capabilities as well as increased automation requirements of future flight and the rapidly developing operations and their needs. The Conference will take place on 9-11 April 2019 at Westin Washington Dulles Airport, Herndon, VA.

Events: AERO 2019

AERO Friedrichshafen, the global show for general aviation, will be in its 27th edition. The 2019 edition, in over 100 talks and workshops, high-profile speakers, will present new developments in the general aviation industry, discuss hot topics and answer the questions trending in the General Aviation community. AERO will be held in Friedrichshafen from 10 to 13 April 2019.

Events: Aviation Day Romania Bucharest, Romania

The Romanian Aviation Day will gather industry leaders and high level officials from Europe to discuss the priorities, challenges and opportunities of the air transport in the region. Over 100 top representatives of government and stakeholders are expected to participate. The topics of discussions will include: Air transport infrastructure in the region; Cyber security - impact and trends in aviation and Innovation and digitalization. Aviation Day will take place in Bucharest on 12 April 2019.

Events: IATA Aviation Summit, Africa & the Middle East Nairobi, Kenya

The IATA Aviation Summit, Africa and Middle East, theme for 2019 is "Unlocking Africa and Middle East's Aviation Growth Potential". The event will bring together more than 200 stakeholders from the concerned regions and from around the globe. Other issues which will be tackled during the summit are: safety & security, digital airlines, taxes, currencies. The Summit will take place on 16-17 April 2019 in Nairobi.

Events: Safety and Flight Ops Conference Barcelona, Spain

The IATA Safety and Flight Operations conference is the event in which the air industry explores key topics affecting it, and the stakeholders share ideas and experiences to influence the future development of safety and flight operations. The conference will take place in Barcelona on 2-4 April 2019.

Events: Transport Research Arena 2020

The Finnish Ministry of Transport and Communications, the Finnish Transport and Communications Agency, the Finnish Transport Infrastructure Agency and the European Commission together with the European Technology Platforms and the Conference of European Directors of Roads (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).

Events: Safety in Aviation Forum for Europe - (SAFE)

The Safety in Aviation Forum for Europe conference provides the audience with an all-round multi-sectoral picture of safety issues, a focused examination of key risk areas and a toolbox of potential mitigations, in a conference format called "SAFE 360°". SAFE 360° will support the European Safety Management System, the European Plan for Aviation Safety ("EPAS") and complement the Data4Safety initiative. The conference will take place in Brussels on 13-15 May 2019.

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