



**A response by The Chartered Institute of Logistics and Transport (UK) to the DfT consultation**

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## **Introduction**

- 1 The Chartered Institute of Logistics and Transport (CILT) is a professional institution embracing all transport modes whose members are engaged in the provision of transport services for both passengers and freight, the management of logistics and the supply chain, transport planning, government and administration. Our principal concern is that transport policies and procedures should be effective and efficient, based on objective analysis of the issues and practical experience, and that good practice should be widely disseminated and adopted. The Institute has a number of specialist forums, a nationwide structure of locally based groups and a Public Policies Committee which considers the broad canvass of transport policy. This submission draws on contributions principally by the Aviation Policy Group.
- 2 This response begins with a discussion about the history of slot allocation because we believe it is important to understand the background to the current situation. We then discuss the need for slot allocation, why slots are limited and why there is a perceived problem with the current situation. We then ask if reform is necessary and go on to answer the consultation questions.

## **History**

- 3 The origins of slot coordination go back to just after the Second World War when a small group of airlines met to coordinate their schedules to ensure that very long-haul travel, involving multiple carriers, was as convenient for passengers as possible. Over time the base carrier at each major airport became responsible for this process, which worked well for many years. The growth of LHR and other large airports with the large jets in 1970 increased the demand for peak hour slots.
- 4 At this point the coordination process became less about coordinating schedules to ensure passenger convenience, and more about ensuring the airports functioned efficiently by spreading arrivals and departures across the day to optimise the available capacity. Slots became the 'unit of currency' through which that capacity was allocated to airlines. The airport and airlines formed a scheduling committee to ensure the slots were allocated to avoid congestion, but the overall process was still carried out by the base carrier, which in the case of LHR was BA.
- 5 In the late 1980s, it was becoming increasingly clear that BA could not continue in this role. BMI was challenging BA's short-haul business and Virgin Atlantic its long-haul business, and both were demanding access to LHR. Similar issues were arising in other EU Member States and so in the early 1990s the first Slot Regulation was brought into force, that established the need for coordinators to be independent of airlines, airports, and government. Consequently, the

department within BA that carried out the slot coordination process was hived out into a separate legal entity, creating Airport Coordination Ltd (ACL).

- 6 In 2010 ACL was more or less a UK only operation with 25 airports in the portfolio and its only overseas activating being in Ireland. During the 2010s it embarked on an ambitious overseas expansion programme and today they now carry out this role at 70 airports.

### **Why regulate**

- 7 Most airports have three main constraints: the runway, the terminal(s) and aircraft parking. In most cases at any airport is the runway capacity and at most large airports with two or more runways each runway can only safely handle circa 40 movements per hour. If for example one is used for landing and one for takeoffs then in any given hour the maximum number of flights that can be scheduled is governed by that constraint. There are also terminal constraints based on the number of check-in points, security control units and boarding gates.
- 8 In the USA the FAA since the 1960s has regulated Washington DCA airport to limit to mainly regional flights and to designate Washington Dulles airport for longer haul domestic and international flights. JFK in New York is also regulated by the FAA.
- 9 Also in the 1980s the UK Government stated that all new scheduled airlines should operate from LGW and were banned from LHR. It was written into the USA/UK agreement and specified Pan Am and TWA. This became a problem when they both ceased operation. Pressure came from the US DoT for the replacement airlines to operate from LHR, which happened. United, American and Delta now operate in the London area from LHR, though they do have service from the UK large regional airports.
- 10 Recently there has been issues over slot reduction at Amsterdam, which indicates the complexity of regulating a global industry without common standards.

### **Why are slots a limited resource?**

- 11 From the moment commercial aviation restarted after the Second World War forecasts of future growth have consistently lagged the actual growth. At LHR in the 1970s it was deemed the airport would be large enough with two runways and three terminals yet growth has now developed to five terminals and a potential third runway.
- 12 Since the Second World War, commercial aviation has grown such that the capacity available, particularly in terms of runways, has consistently lagged behind demand. Policy developed in the 1970s sought to meet London demand at Gatwick and then Stansted with a 275,000 annual ATM limit at Heathrow. This limit was removed in 1985 and then, with the approval for Terminal 5, a new limit of 480,000 annual ATMs was imposed. Throughout this period, there was growth in ATMs and, with the physical limitation of Heathrow's two runways, demand spread from peak periods to formerly off peak times.
- 13 Gatwick, Stansted, Luton and London City have also seen significant growth and are now slot regulated. Manchester has been slot regulated since 2006 despite the increase in capacity provided by its second runway in 1996. Birmingham and Bristol's growth have also resulted in slot regulation.

### **Why is there a perceived problem with slot management?**

- 14 Airlines which have large operations at an airport that have developed over decades inevitably end up with a large number of slots, which they regard historically as their slots. . Indeed the 2017 Monarch court cases established that while slot ownership is not defined in law, slots are effectively the property of an airline so long as it has a valid Operating Licence and in some cases the value of these slots appear on the airline balance sheet. The value of slots depends on the revenue that can be earned per flight and LHR slots are worth more than those at Gatwick or Manchester.
- 15 Also as the airport capital expenditure ,in building terminals, for example is recovered from the airlines through user charges as landing and other user charges, the airlines in a sense “own” their part of a terminal. Also the large airlines invest directly in passenger facilities which will have cost many millions to build, In the USA airlines sometimes own and operate their own terminal.
- 16 Hence once they have built up a slot holding they are reluctant to release any back to the market, though this does happen even at LHR, where new entrants like Jet Blue have recently acquired slots to enable them to compete with the main US and British airlines on routes to the USA.
- 17 Sometimes as part of merger deal with the national competition authorities airlines may be asked to divest some slots to reduce market dominance. These are known as Remedy Slots and intended to ensure competition is maintained on what the regulator sees as key routes. For example IAG as a result of their acquisition of Air Europa , may be required to give up slots at key airports.
- 18 Airlines look to maximise the value of the slots and will apply for routes which they feel will be profitable over time and will introduce and trial new routes. Also routes that become less profitable will be dropped. For example ten years ago three airlines served Bremen from LHR and today the only route is only served from Stansted.

### **Is reform necessary?**

- 19 The first EU Slot Regulation was inspired by the IATA Airport Slot Guidelines, that were first published in the early 1970s to help bases carriers manage the slot coordination process in a consistent way, and to the same annual calendar. This was at a time when most airlines and airports were state-owned, and very few controls around state aid existed. Therefore IATA was also seeking to create a more level playing field with the Guidelines, a level playing field that was enshrined in EU law in the early 1990s, as discussed above.
- 20 As so much has changed since the early 1990s, never mind the early 1970s, it is widely accepted that the current Regulation is no longer ideal. However, there is little if any consensus on what should replace it. Airports, airlines and regulators have different priorities, and different ideas about what efficient slot use looks like. Indeed efficient slot used is talked about a lot, including in the DfT consultation document, but never is it clearly defined in a way that all stakeholders agree on.
- 21 At LHR and the other London airports airlines wish to maximise the value of their slots and allocate them to the routes earning most revenue. As a result over the years there has been a reduction in service to UK secondary cities. For example a new shorthaul airline might need 20 slot pairs to provide a viable operation. If those slots were taken from the established airlines on some formulaic basis then that would result in a loss of asset and loss of revenue from those

flights. The IATA guidance specifically states that historic slots should not be taken from airlines. Also if DfT were to take over the slot allocation there could be a conflict of interest as, through the CAA they are also the airports regulator.

22 One modification that might help with transparency might be to have an open bid market for slots which are returned by airlines or which they lose under the 80/20 rule. A rule which is now recognised globally as an efficient mechanism, which gives some flexibility to cope with seasonal changes in demand, but ensures that airlines do not “sit” on unused slots. However any trading platform could become dominated by the major airlines with the most financial power, to the detriment of smaller regional airlines and the secondary cities they serve.

### **Answers to Consultation Questions**

*Q1. Do you agree that Secretary of State should have the power to make changes to the definition of a new entrant when appropriate for the UK or an individual airport, or to reflect the latest WASG guidance? Do you have any comments on the circumstances in which this power should be available or the grounds on which it should be exercisable?*

A1. Yes. The power should be used to follow WASG guidance when this is appropriate to the UK situation. However, we would also suggest that the UK follows a similar approach to consulting the industry as that followed by IATA when looking at changes to the WASG and DG MOVE when looking at changes to the EU Slot Regulation.

*Q2. What, if any, additional criteria, beyond the limits on the number and proportion of slots held, do you think should be included in the definition of a new entrant?*

A2. No response

*Q3. Do you support or oppose the removal of the definition of an airport system and all references to it from the regulation?*

A3. The removal of the definition of an airport system is supported. There are clear differences between the airports serving London, South East and Eastern England (eg. ownership, market segments, catchment areas) that mean that they compete with each other.

*Q4. Do you agree or disagree that restrictions on re-routing, exchanging and transferring of slots should apply to new slots allocated to incumbents?*

A4. Agree, in the interests of fairness.

*Q5. Do you agree or disagree that the duration of these restrictions should be extended from 2 to 4 equivalent seasons? What, in your view, if any, would be a more appropriate duration for the restrictions and why?*

A5. Market conditions and operational environments can change a lot in four years so restriction is extended, there should be some flexibility built in to allow for significant changes, either regionally or globally

*Q6. Do you agree or disagree that re-time priority for slots should be removed in accordance with WASG?*

A6. Agree, in order to align with latest WASG.

*Q7. What do you consider are the main positive and negative operational implications of removing the re-time priority for slots?*

A7. There is very little downside, but consistency with other slot coordination regimes/policies is generally helpful for airlines.

*Q8. Do you agree or disagree that the Secretary of State should have permanent powers to make regulations about slot alleviation in response to a crisis? In what circumstances should these powers be available, and in what circumstances should they be exercisable?*

A8. Agree. However, it is not possible to be specific about the circumstances which may occur in the future. It would however be appropriate to outline the objectives of using such powers against which a circumstance can be judged eg. outside airline's control.

These alleviations should be time-limited and applied early enough for airlines to plan for them. Any extension should also be applied early enough for airlines to plan for them and notice to end any alleviation should be given early enough for airlines to restart operations in a timely way.

*Q9. Are there additional powers to those suggested in paragraph 1.37 that you think should be available to the Secretary of State in making bespoke regulations in exceptional circumstances?*

A9. No response

*Q10. Do you agree or disagree that a higher usage ratio would lead to more efficient use of existing airport slot capacity?*

A10. Disagree. Airlines' decisions not to use a slot on a particular day are made for a range of reasons, of which slot utilisation is only one and probably a minor consideration. A higher usage ratio would increase the propensity to use a slot when other factors are suggesting it should not be used and thus worsening the situation.

*Q11. What do you consider would be the main positive and negative operational implications of a higher slot usage ratio?*

A11. No response

*Q12. What would you consider to be an appropriate higher alternative usage ratio to 80:20?*

A12. A higher usage ratio is not considered appropriate. A different ratio from that used worldwide would create international differences that could lead to unintended consequences.

*Q13. Do you agree or disagree that airports should be given the option to decide if to apply a higher usage ratio?*

A13. Disagree

*Q14. What views, if any, do you have on the environmental impacts, including achievement of net zero, of the proposal to increase the slot usage ratio?*

A14. Changes to the slot usage ratio would have no significant effects on any environmental impacts because they would be marginal and completely overshadowed by other trends.

*Q15. Do you agree or disagree that the coordination committee should act as a focal point for scrutiny of decision-making in relation to slot allocation at individual airports?*

A15. Yes

*Q16. In what other ways, if at all, do you consider the role of the coordination committee should be strengthened?*

A16. The role of the coordination committee should not be changed. 'If it ain't broke, don't fix it'

*Q17. Do you agree or disagree that there should be a requirement for every coordination committee to have an independent chair?*

A17. No response

*Q18. Do you agree or disagree that the coordination committee should be given clearer responsibility for ensuring complaints and appeals of slot decisions reach a conclusion?*

A18. Agree if this is speedier and cheaper than other routes, such as through the courts, but ACL is required to apply the rules impartially so other structures, such as the Independent Review Process, may already be adequate.

*Q19. Do you agree or disagree that the Secretary of State should have the power to add criteria to and remove criteria from the list of secondary criteria?*

A19. Disagree, because diverting away from international guidelines could have unintended consequences and lead to retaliation.

*Q20. What additional secondary criteria, if any, do you consider could be beneficial or detrimental to the slot allocation process?*

A20. No response

*Q21. Do you agree or disagree that the Secretary of State should have the power to give guidance to the coordinator on the prioritisation of secondary criteria?*

A21. Disagree, because it would disturb international agreements.

Also, one of the main building blocks of independent coordination is that ACL and other coordinators should be free of influence from airport, airlines and government. This is one of the rules in the IATA guidelines.

*Q22. Do you agree or disagree that the Secretary of State should have the power to direct the coordinator?*

A22. Disagree, because it is unnecessary. Also, as already stated above, one of the main building blocks of independent coordination is that ACL should be free of influence from airport, airlines and government.

Currently, the UK is held-up as best practice within slot coordination circles, which is why ACL has been so successful at growing its business outside the UK. This change would seriously damage both ACL's and the UK's credibility within this critical sector of the industry.

*Q23. What do you consider, if any, are the main positive and negative operational implications of a power to direct the coordinator?*

A23. No response

*Q24. In what scenarios, if any, do you consider that a direction from the Secretary of State would not be appropriate or necessary?*

A24. No response

*Q25. Do you agree or disagree that there should be a public slot register which records who holds the Historic Rights to a slot, who operates each slot and the duration of any slot lease?*

A25. Agree with the slot register and a record of who holds the historic rights to a slot. However slot leases are commercially sensitive, legally binding documents between two airlines so the terms should not be public as a matter of course.

*Q26. What, if any, other information do you think that it would be useful to record on a public slot register?*

A26. No response

*Q27. Do you agree or disagree that all secondary trading should be advertised and carried out through a central slot trading platform?*

A27.

A slot trading platform is worth consideration and the adoption of AI by IT companies developing these platforms has reduced cost and complexity.

However as slot trading is only legal in the UK it would have to be a system at present for UK airports only.

As with other automated exchanges, users would have to be registered and licensed and as airlines sometimes use brokers for reasons of commercial and operational confidentiality, brokers would also have to be registered users as happens on maritime exchanges.

An automated system was trialled in 2010 by ACL but withdrawn in 2012 as airlines were unwilling to use it as commercially sensitive trades were in the public domain.

Hence we feel there would need to be extensive consultation on any system.

*Q 28 Do you agree or disagree that requiring use of such a platform would increase transparency?*

A28. No response

*Q29. What do you consider, if any, would be the benefits and disadvantages of using a central slot trading platform for all secondary trading of slots?*

A29. There is a risk of unintended consequences

*Q30. Do you agree or disagree with this platform being run by ACL?*

A30. No response

*Q31. Do you agree or disagree that further oversight of the secondary trading market is necessary to protect 'fair and open' competition?*

A31. Disagree. Oversight would not lead to better competition and would simply delay change. Also, some slots trades are completed very quickly, in some cases in less than 48 hours, which potentially saved at least one airline from going into administration by raising short-term cash. Any oversight could delay/prevent this agility being in place

*Q32. What, in your view, if any, would be an appropriate threshold for when review and/or approval would automatically apply to a slot trade?*

A32. No response

*Q33. Do you agree or disagree that further oversight of secondary trades of slots should only apply at airports with substantial market power?*

A33. No response

*Q34. Do you agree or disagree that slot leasing should be limited to a set period of time?*

A34. Agree

*Q35. Do you agree or disagree that a time limit on slot leasing would be effective in encouraging airlines to return slots that they cannot use to the pool?*

A35. Agree although there is always the risk that the slot owner sets up a new lease with another carrier rather than return the slot to the pool. Also, airlines will buy slots when they are available, often against future aircraft orders, and it would be unhelpful to lose this level of planning flexibility.

*Q36. What do you think would be the appropriate time period for a limit on slot leasing?*

A36. Two years.

*Q37. Do you agree or disagree that airlines that no longer operate at an airport should be subject to a different time limit on slot leasing than airlines currently operating at the airport?*

A37. No response

*Q38. Why and what difference would you like to have implemented?*

A38. No response

*Q39. What do you consider are the main positive and negative operational implications of limiting slot leasing to a set period?*

A39. No response

*Q40. Do you agree or disagree that slot auctioning would be an effective means of allocating new slot capacity?*

A40. Disagree. While new slots will become available when major new capacity comes on line (eg. for a Gatwick Northern Runway or Heathrow Third Runway, if approved), it may also happen if airports are able to make marginal changes (eg. Heathrow being permitted to increase its annual limit above 480,000 ATMs). The arguments in favour of auctioning are not clear while it is clear that major airlines with deep pockets will be able to bid the highest prices and this would not increase competition. Transparency in the allocation of new slots is important, and there may well be challenges, but these are better dealt with by the Courts directly rather than by Government or regulator, whose decisions would inevitably be challenged and would end up in the Courts in any event.

There are also legal questions of who slot is to sell – this has probably been settled by the Monarch case in terms of slots already allocated, but not for newly created capacity, as in the two examples listed above.

Finally, there is the practical question. No workable model has ever been found for primary auctions of large volumes of slots and the modelling DfT refers to does not reflect the reality and complexity of a major international airport.

*Q41. Which, if any, of the auction designs in Annex B would you prefer to be used for auctioning slots?*

A41. No response

*Q42. What, in your view, should revenue raised through slot auctions be used for?*

A42. No response

*Q43. What do you consider would be the main positive or negative impacts of slot auctioning on market entry, competition and innovation?*

A43. No response

***Note: Questions 44 and 45 are not asked in the main paper but are listed in Annex A***

*Q44. Do you agree or disagree that changes to the current system of historic rights should be considered?*

A44. Disagree. The current system allows airlines, and to a degree airports to make long term investment decisions, particularly around fleet and infrastructure, safe in the knowledge they will continue to have access to capacity at constrained airports. To remove this uncertainty may delay or reduce investment or steer airlines and shareholders to divert investment into other airports and deploy aircraft outside the UK.

Also we must question whether this would achieve anything that is not already happening. Under the current system BA/IAG has increased its slot holding at LHR from c30% to c55% while new long-haul competition has thrived. Similarly, at LGW EZY has gone from nothing to c40% of operations over time, and new competition has emerged in a similar way to LHR.

It seems harsh to punish airlines who have established themselves at busy airports just because they got there first, and others are now unhappy about it.

*Q45. Would you agree or disagree that 15 years be an appropriate time for a fixed duration for historic rights?*

A45. Disagree, as we do disagree with any time-limiting of historic rights for the reasons set out above.

We must also be mindful of what may happen at the end of the time limit. If slots are withdrawn from a foreign carrier, there is a real risk of retaliation against UK carriers at overseas airports. We saw very recently the US DoT's willingness to intervene when just the possibility of slots being withdrawn from US airlines at AMS was tabled by the Dutch Government.

***Note Questions 46, 47 and 48 in the main paper are different from those listed in Annex A. The answers below are to the questions as asked in the main paper***

*Q46. Do you agree or disagree that it would be appropriate to ring-fenced a proportion of new slots for domestic connectivity purposes?*

A46. Agree. UK connectivity is a clear policy goal and can be achieved when new capacity is provided, linking smaller cities with London as well as providing connectivity with long haul routes.

*Q47. For what other specific purposes do you think that a proportion of slots should be ringfenced when there is a release of new slots and why?*

A47. A proportion of slots should be ring fenced for zero emission aircraft operations in order to contribute towards a trial of such operations at valuable times which might otherwise not meet the criteria. These might be the same slots as for domestic services. A further proposition of slots should be reserved for all cargo aircraft which are vital to international trade and supply chain resilience.

*Q48. What views, if any, do you have on the environmental impacts, including achievement of net zero, of the proposal to ring-fence a proportion of slots for domestic connections?*

A48. Domestic connections are most likely to be operated with zero emission aircraft.

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