



Council of the European Union
General Secretariat

Brussels, 04 May 2020

WK 4550/2020 ADD 1

LIMITE

AVIATION

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Aviation
N° prev. doc.:	ST 7586/20
N° Cion doc.:	ST 7576/20
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) N° 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community in view of the COVID-19 pandemic - Comments from Member States on the Commission Proposal

Delegations will find attached comments from Ireland on the above-mentioned proposal.

IRELAND'S WRITTEN COMMENTS

AVIATION WORKING PARTY 5 MAY 2020

Subject: COM(2020) 178 final, Doc 7576/20.

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community in view of the COVID-19 pandemic.

General Comments

Ireland thanks the Commission and welcomes these proposed amendments to Regulation (EC) 1008/2008, to help address the impacts of the COVID-19 pandemic. These amendments, together with the recent introduction of a suspension of the airport slots regulation "use-it-or-lose-it" rule, demonstrate our commitment to the Union's aviation sector.

Ireland supports the over-arching concept of relaxing certain obligations during this pandemic, to best provide for the future of the Union's aviation sector.

Specific Comments

The following are a number of suggestions with regard to the proposed text of the regulation and the highlighting of a number of duplications within the text that may be better addressed in a different manner (e.g. in a new Article with regard to the proposed report from the Commission). Finally, there are a number of additional considerations that Ireland believes worthy of addressing in the context of this proposed regulation.

Article 9 – New paragraph 1(a)

- The period 1 March 2020 to 31 December 2020 is not consistent with aviation seasons of operation. It might be preferable to refer instead to the period 1 March 2020 to 26 March 2021, thereby including the entire winter 2020-2021 season, instead of only half of it.
- Regarding the reference to "*a realistic prospect of a satisfactory financial reconstruction within the following 12 months*", this could be amended to instead include a reference to the aviation seasons, i.e. "*a realistic prospect of a satisfactory financial reconstruction within the following summer and winter seasons*".
- The wording "*It shall review the performance of this Union air carrier at the end of the 12-month period*" could then be changed to the following: "*It shall review the performance of this Union air carrier at the end of the above indicated period*".

Article 9 – New paragraph 1(b)

- Should the reference to "*corresponding period in the previous year*" be more clearly defined? For example, "*the corresponding month in the previous year*".
- Should the references to "*the best scientific data*" be better defined? In addition, could the applicable authority/authorities in this area be clearly identified, in the same manner as Eurocontrol is identified for traffic data?
- The date "31 December 2020" could be amended to "26 March 2021".

- As in Paragraph 1(a), the period 1 March 2020 to 31 December 2020 is not consistent with aviation seasons of operation. Would it be better to refer instead to the period 1 March 2020 to 26 March 2021, thereby including the entire winter 2020-2021 season, instead of only half of it?

Article 21a – New paragraph 1

- The period 1 March 2020 to 31 December 2020 is not consistent with aviation seasons of operation. Should this instead be the period 1 March 2020 to 26 March 2021, thereby including the entire winter 2020-2021 season, instead of only half of it?

Article 21a – New paragraph 4

- Regarding the references to “*the best scientific data*”, could this be better defined? In addition, could the applicable authority/authorities in this area be clearly identified, in the same manner as Eurocontrol is identified for traffic data?

Text duplication within Articles:

Is there a possibility to have the intent of the below duplicated texts presented more efficiently?

- Article 9(1)(b), Article 21a(4) and Article 24a(3) are near identical in intent.
- Article 9(1)(c), Article 21a(5) and Article 24a(4) are identical, should they instead be included in a separate article stipulating the requirement to draft a conclusive report on COVID-19 and its impact on community air services and EU air operators?
- Article 9(1)(d), Article 21a(6) and Article 24a(5) are identical, should they instead be included as a single paragraph in Article 25 detailing the three articles above?
- Article 24a(4) and Article 24a(6) are identical, except for the phrase “*as soon as possible*”.

Additional considerations:

- In Article 24a(7), to what “*Article 4*” does this refer? Article 4 in this regulation concerns the granting of Operating Licences to air operators. Is it a reference to article 4 of Directive 96/67/EC? Or article 4 of Directive 2014/25/EU? Can this be clarified?
- Owing to the financial situation many EU air operators find themselves in, due to the impact of COVID-19 on the aviation sector, would it be timely to begin a process to consider proposals to liberalise ownership and control requirements in the regulation, thereby opening up EU air operators to increased levels of foreign investment to assist in the provision of increased liquidity?
- Articles 16 to 18 on Public Service Obligations should also be examined with a view to:
 - allowing for the establishment, on a temporary basis, of broader criteria for PSOs in light of COVID-19;
 - the insertion of provisions to deal with the requirements for emergency PSOs; and/or
 - providing a derogation from these provisions, thus allowing Member States to be guided by the advice relating to the public procurement framework in Communication 2020 C108 I/01.