

Joint opinion on the third phase of air transport liberalization

(26 February 1992)

The plenary meeting of the Joint Committee on Civil Aviation held on 19 February 1992 mandated the Bureau to produce a joint position on the EC 'third package' of civil aviation liberalization measures. This joint opinion is based on the comments presented to the Commission by the organizations represented on the Joint Committee.

The Joint Committee considers that the measures proposed by the Commission in the third package should be complemented by a simultaneous global programme for a European air transport policy. Such a policy would have to take account of all the interests of the civil aviation industry as represented on the Joint Committee on Civil Aviation.

Liberalization

The Joint Committee agrees with the Commission in its stated intention of completing the air transport internal market, but stresses that these measures should be accompanied by others dealing with infrastructure and harmonization of social and safety standards to the extent necessary to implement the common internal air transport market.

Without prejudice to the overall objectives of the JAA with respect to defining common airworthiness requirements, and in the interim period until such requirements for new aircraft types are achievable, the Joint Committee recommends that existing aircraft presently in production and constructed in, certificated and registered by any Member State should be accepted by all other States of the Community. Acceptance should be without need for modification or any other form of recertification requirement.

Proposal for a Council Regulation on licensing of air carriers

The Joint Committee agrees on the need to provide for high safety standards (technical fitness) and overall economic and financial stability and to maintain the airlines' ability to meet their obligations as regards safety and social standards.

Considering the destabilizing effects which economically unsound operations may have on other already established airlines, certain controls are necessary on first-time applicants. New entrants should be required to present a realistic business plan including revenues and costs. Nevertheless, considering that financial viability is in the end determined by the market forces rather than by decisions taken by an authority and to avoid additional administrative burdens, such controls should not be automatically extended to already operating air carriers.

Proposal for a Council Regulation on access for air carriers to intra-Community air routes

On the specific question of cabotage, the Joint Committee is in favour of delaying the full implementation of free access for carriers from Community Member States to the domestic air transport markets¹ of other Member States. The effects of domestic cabotage will vary greatly from airline to airline because the domestic market varies from country to country. The Joint Committee therefore considers that the right of domestic cabotage¹ should be implemented

¹ Right of eighth and ninth freedoms.

after a transitional period of two or three years, during which significant progress should be made towards the harmonization of the regulatory systems governing the different domestic markets. The Joint Committee agrees on the need to implement full Community cabotage rights².

The Joint Committee supports Article 4 of the Commission's proposal on market access subject to an air carriers's right of appeal to the Commission.

Proposal for a Council Regulation on fares and rates for air services

In this connection, the Joint Committee wishes to draw the attention of the Commission and the Council to the fact that air fares as adjusted for inflation have declined continuously in recent years while costs have continued to rise. In many segments of the market, the cost/revenue equation is already seriously distorted with carriers losing significant sums of money and hopes of substantial fare cuts are illusory.

Infrastructure

The Joint Committee recognizes that the completion of the internal market in air transport is likely to increase the volume of air traffic in Europe and considers the provision of adequate infrastructure, both on the ground and in the air, to be essential.

The Joint Committee welcomes the growing recognition by the European Commission and the European Parliament of the significance of transport infrastructure investment for the development of the single European market and the central importance of a modern regional air transport network in strengthening the Community's economic and social cohesion.

To assist in this process, the Joint Committee calls for:

- European Community support for investment in airport infrastructure projects in the framework of regional economic policy;
- adherence to the principle of transparency and non-discrimination in the development of all modes of transport.

Many airports are constrained in their investment plans by government restrictions on their investment funds. Though a project to create new airport capacity may be commercially and financially viable, in some countries it can be frustrated due to government spending limits. If adequate capacity is to be provided, such restrictions must be removed and airports must be allowed to borrow in the money markets on normal financial and business criteria.

The Joint Committee urges all governments to give airports the financial freedom to develop their capacity in accordance with normal business criteria.

In some EC Member States, unnecessarily time-consuming administrative and/or juridical procedures, including public inquiries and too many stages of appeal, seriously impair the creation of adequate airport capacity. What airports need are streamlined pan-European procedures for the creation of this vital element of European Community transport infrastructure.

Perhaps the most serious constraint is the public fear of aircraft noise. Airport operators already spend millions of ecus insulating houses near their airports and taking other noise-reducing measures, while airlines and aircraft manufacturers already invest comparable sums in quieter aircraft. Airport operators, where local laws allow, give incentives to the operators of certain quieter aircraft, such as allowing them to operate

² Right of fifth, sixth and seventh freedoms.

during night curfew restrictions and in the form of reduced airport charges. Indeed the criteria for slot allocation at airports should in certain cases be altered to favour quieter aircraft. This is not just an idea developed by airports but is endorsed by ICAO Resolution 19/1 of 1989. In this resolution, the ICAO urges Member States to consider the relaxation of night curfews for chapter 3 aircraft. All airports need the legal right to such flexibility in respect of all quieter aircraft. While the legislative pressure must be maintained to ban the noisier aircraft, parallel measures must be initiated to give airports and airlines greater flexibility in the operating hours of quieter aircraft. The solution is political: unless governments act swiftly to recognize the inescapable link between environmental protection and airport capacity, adequate airport capacity to meet forecast traffic growth will not be provided.

There must also be an agreed zone around airports in which the construction of buildings for residential use and certain other agreed uses would be illegal. How, otherwise, will they avoid residential development within the airport environs which would in the future, as in the past, constrain the provision of airport capacity? The International Civil Aviation Organization (ICAO) adopted a resolution in 1990, sent to Member States under the ICAO letter of 16 January 1991 which points out under item 5: 'The Assembly urges the Council to promote and States to develop an integrated approach to the problem of aircraft noise, including land-use planning procedures around international airports, so that any residential, industrial or other land use that might be adversely affected by aircraft noise is minimal.' Airports must be given the legal right to be heard in the process of land-use planning within an agreed radius of an airport. Here again the solution is political: unless governments recognize the link between the creation of adequate airport capacity and the protection of the envi-

ronment, adequate airport capacity to meet forecast traffic growth will not be provided.

The Joint Committee urges the European Commission to establish a Community-wide airport capacity/environmental protection policy addressing all these problem areas.

The Joint Committee applauds the limited progress being made by ECAC member States towards the harmonization of ATC (air traffic control) equipment and procedures. However, in order to address the air-space capacity problem in time to meet the demands of the liberalized market, the Joint Committee calls upon the Member States of the European Community and the ECAC to free air traffic control from national government spending constraints by creating an independent pan-European ATC organization which collects its own fees and is free to invest them in its own development without having to compete with other political priorities of Member States' governments.

The Joint Committee also calls on the European Community and national governments to ensure that civil aviation shares in the 'peace dividend', by making available to civil air transport airspace currently reserved for military aviation.

External relations

An absolute prerequisite for a Community external air transport policy is the completion of the internal market. This also requires a common policy for the whole of Europe, encompassing EC Member States and neighbouring countries.

A basic criterion of such Community external competence should be the right for each State, whether an EC State or a third country, to intervene on the basis of objective criteria if the overall competitive position of the airlines based in its territory would be jeopardized, provided that safeguards are

included in the text of the regulation so that protectionist regimes do not have the opportunity to impose unreasonable restrictions.

Attachment to joint position

Background

In accordance with its statutes, the EC Joint Committee of employers and employees in civil aviation meeting on 19 February 1992 in plenary session mandated the Bureau of the Joint Committee to produce and transmit to the Commission a joint position on the EC Commission's package of 'phase 3' proposals. The Bureau of the EC's Joint Committee on Civil Aviation, having met in accordance with its mandate on 19 and 26 February 1992, is in a position to deliver the said joint position. However, in accordance with Article 11, paragraph 2, of the Joint Committee's statutes, one Bureau member invokes his right to deliver and attach to the joint position a view which dissents in part from the said joint position; for transmission to the Commission.

Dissenting view

(attached to EC Joint Committee of employers and employees in civil avia-

tion joint position on the Commission's 1991 package of 'phase 3' proposals)

'Whilst subscribing generally to the joint position, in a spirit of willing compromise as required of the social partners, one member of the Bureau of the Joint Committee on Civil Aviation dissents therefrom inasmuch as he is strongly of the view that the present proposals do not adequately address charter air transport, which accounts for half of European air transport. The Commission should, in his view, consider making supplementary proposals to liberalize the regulation of ordinary inclusive-tour type charter air transport, as distinct from just the 'seat only' type of charter traffic addressed by the proposals which is but a minority of the Community's total charter air traffic. This member of the Joint Committee considers that the Commission, in formulating its supplementary proposals, might wish to take into consideration specific ideas advanced by the L'Association des compagnies aériennes de la Communauté européenne (ACE), which are assembled in a paper appended hereto.'

Appendix

Communication of JCCA constituent L'association des compagnies aériennes de la Communauté européenne (ACE) on the subject of 'non-scheduled services'.

