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VERFAHRENSANWEISUNG 02/2018

Application of Possible Sanctions against the Late handback of Slots

Gültig ab: 01. Juli 2018

Background:

Coordinators around the world and especially coordinators and schedule facilitators in Europe increasingly take note in their day to day work that late return of allocated slots which the airlines not intend to use happens on the last minutes or even after the "last minutes".

This behaviour leads to situation where other air carrier cannot be allocated with the slot they request and have to accept non optimal offers from the coordinators or even get no slot offer within the timing they can operate commercially viable.

This was already realised by the European regulator in 1995, when Art. 7.2. was introduced in the Regulation 95/93.

Also IATA takes note of the fact, that late handback is an issue in the context of the optimal use of airport capacity.

It is not the coordinators obligation to determine late handback by carriers, but it is the obligation of the coordinator to monitor these types of issues and communicate with them about the reasons, which might not be aware to the coordinator why carriers do not follow the respective requirements set by the EU-Regulation 95/93 and their own obligations in WSG 8.5.

However, when the coordinators realise that a late handback situation occurs, communication should take place between the coordinator and the airlines in question.

If the airline in question is not willing to comment the findings of the coordinator and does not communicate with the coordinator, the coordinators shall have the possibilities to sanction the carrier.

Article 169 of the Austrian Aviation Act states that any infringement of EU-Regulation 95/93 might result in a penalty.

This document sets out how the coordinator will apply the sanction of lower priority.

This document was sent out for comments during summer 2017, after the first draft was circulated among the members of the Capacity Working Group of the Coordination Committee; only 2 comments were received and commented by SCA, some comments could not be addressed as they were questioning the Regulation 95/93 or the WSG, which is not a part of the discussion.

Introduction:

- 1.1 The IATA Worldwide Scheduling Guidelines, paragraph 8.5 - *Holding and Returning of Slots* states:
"Airlines may only hold slots that they intend to operate, transfer, exchange or use in shared operation".

- 1.2 *EU-Regulation 95/93 states in Art. 7. (Information for schedules facilitators and coordinators) that Airlines should make available all relevant information requested by the coordinator.*

Art. 7.2. states that "where an air carrier fails to provide the information referred to in paragraph 1, unless it can satisfactorily demonstrate that mitigating circumstances exist, or provides false or misleading information, the coordinator shall not take into consideration the slot request or requests by the air carrier to which the missing, false or misleading information relates. The coordinator shall give that air carrier the opportunity to submit its observations".

- 1.3 *To ensure that scarce capacity is not wasted, airlines must immediately return any slots they know they will not use. Even at short notice, it may be possible to reallocate returned slots to other operators.*

- 1.4 *In particular, series of slots that an airline does not intend to operate must be returned no later than the Slot Return Deadline dates of **15 January** (summer) and **15 August** (winter).*

- 1.5 *Airlines that intentionally return series of slots after the Slot Return Deadline will receive lower priority by the Coordinator during the initial coordination of the next equivalent season.*

- 1.6 *A list of airlines that return series of slots after the Slot Return Deadline will be maintained and published by the Coordinator.*

APPLICATION OF LOWER PRIORITY

1. Where the coordinator deems that an airline has returned, or continues to hold, slots after the IATA Historic Baseline Date in breach of the provisions of WSG para 8.5.3, he will contact the air carrier concerned and give the opportunity to demonstrate to the satisfaction of the coordinator that the slots had not been intentionally held after the deadline date. The air carrier must demonstrate that the failure to return the slots in a timely manner was due exceptional circumstances beyond its reasonable control.

2. For the purposes of para 1, the coordinator will give the air carrier a reasonable time period to respond, typically 10 business days. If an airline disagrees with coordinators data, then it must contact the coordinator as soon as possible within the 10 business days.

3. The sanction of lower priority will be applied at the next suitable opportunity. Typically this will be during the initial coordination of the next scheduling period or next equivalent scheduling period, as the coordinator deems appropriate, where the air carrier concerned makes requests for new or retimed slots. If the air carrier does not request new or retimed slots for this scheduling period, then the coordinator may defer application of the sanction to a future scheduling period.
4. Where the sanction of lower priority is applied, the coordinator shall:
 - a) Defer consideration of new slot requests made by the air carrier concerned until after the allocation of slots to all other air carriers during the initial allocation of slots for the scheduling period,
and
 - b) Not accept any requests to retime slots by the air carrier concerned unless such retimes would improve the slots available to other air carriers.
 - c) Inform the Slot-Performance Committee Vienna Airport

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