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20 July 2017

**Re: Consultation on Revising the Slot Sanction Scheme Guidelines – June 2017**

Dear Luke,

We refer to the above consultation..

Aer Lingus strongly supports a robust and transparent regime to encourage a responsible and consistent approach to the use of slots by airlines and constitute an effective deterrent to the misuse of slots. However, we would make the following comments in relation to the proposed changes to the Guidelines:

- (i) We do not agree that the reference to ‘*in the past six months*’ should be removed from Sections 3.5(a) as to do so would have the unintended consequence of potentially making carriers with regular scheduled services being made subject to fines for single instances of misuse over extended periods of time.

In relation to Section 3.5(b), we would suggest that the term “ad hoc services” requires clarification and might instead refer to “ad hoc services operated by infrequent operators” and that the period might be extended to “24 months” for such services. A definition might also be included for “infrequent operators” based on a minimum number of services per season.

- (ii) With regard to the proposed change to Section 3.6(a), it should be made clear that a carrier would not be considered to have acted “intentionally”

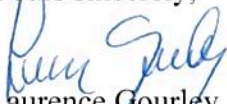
in circumstances which were beyond its reasonable control. This approach would be consistent with that adopted in the equivalent UK Guidelines where an appropriate definition such events can be found which includes: *‘exceptional weather conditions, industrial action, air traffic control delays, on the day operational disruptions, or other factors preventing safe operation of the flight where these are not within the reasonable control of the airline.’*

- (iii) In respect to Section 4.4.1 and 4.4.2, Subsections 4.4.1 and 4.4.2, we would suggest that the “per incident” approach should only apply if the same behaviour continues following the imposition of a fine to avoid significant penalties being imposed before an infringement has been established.
- (iv) In respect to Section 5.1, we agree with the publication of details relating to Uncontested Sanctions. However, to ensure transparency, the publication should not be discretionary, and should apply for any abuse where a sanction applies.

Finally, in addition to the points above, we would encourage the Commission to incorporate elements of Section 6.2 of the UK guidelines which give direction as to what should be taken into account in assessing a sanction.

Please do not hesitate to contact us, should you require further information.

Yours sincerely,

  
Laurence Gourley  
General Counsel