

Position Paper

22 April 2010

Ofcom consultation: Applying spectrum pricing to the aeronautical sector – a second consultation.

Association of European Airlines

The Association of European Airlines brings together 36 major airlines, and has been the voice of the European airline industry for over 50 years. Our members include both UK based airlines as well as non-UK based airlines.

The AEA works in partnership with the institutions of the European Union and other stakeholders in the value chain, to ensure the sustainable growth of the European airline industry in a global context.

The AEA is very concerned with the UK Ofcom proposal to apply Administered Incentive Pricing (AIP) to aeronautical VHF frequencies. AIP will most probably end up as a tax of approximately GBP 1.3 million p.a on the airlines. Not only will this be a tax with no benefit but the airlines alone are not able to change how they use these frequencies and thus AIP is merely a punitive way of increasing revenue to the UK Treasury.

Background

The spectrum aviation uses is allocated internationally by World Radiocommunication Conferences whose outcomes are signed by States, including the UK, and have treaty status.

The systems that use aeronautical spectrum are certified and harmonized by ICAO and the ITU. The spectrum they use must have adequate protection from interference to ensure safety and regularity of flight harmonized throughout the world. Other non-aeronautical systems do not need or have this level of integrity. Aeronautical spectrum cannot be used by a service that is not subject to the same stringent controls as aviation systems.

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- Lufthansa
- Luxair
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- Olympic Air
- SAS Scandinavian Airlines
- SWISS
- TAP Portugal
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- TNT Airways
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- Ukraine International Airlines
- Virgin Atlantic Airways

AIP

Ofcom's starting point is that AIP is intended to increase aviation's efficient use of spectrum. This presumes that spectrum is not being used efficiently. However what or how the spectrum is not being used efficiently is not defined.

The vague basis for this efficiency argument is Ofcom's claim that AIP is necessary to balance the demand and supply for what they consider are congested VHF frequency bands. However, the consultation is not clear on what congestion implies, where the demand is coming from and how AIP would resolve any of these presumed issues.

If there is an efficiency case, the effectiveness of applying AIP to deliver greater efficiency depends on the ability of the user to change behaviour in response to the pricing.

Due to the international considerations already mentioned, an individual service provider has very little, if any, flexibility to make changes to frequency requirements without jeopardizing operations and an individual airline or airline organization would have even less.

Safety is the airlines' first priority.

AEA is concerned with the consultation's treatment of safety. This consultation considers safety as an "externality" of our operations on the premise that passengers do not pay specifically for safety.

Safety is a critical part of our member airlines' operations no matter how or how much a passenger pays for a ticket.

Airlines are subject to stringent certification, regulation and standardization in respect of their aircraft, systems and procedures to ensure safe and regular flight.

Whilst we agree with Ofcom that the UK DfT must ensure safety in UK airspace according to its ICAO obligations, this does not give other bodies the right to do whatever they want and leave safety to the UK DfT. The Government's safety responsibility justifies its involvement in management of all aeronautical spectrum since safety is an inherent part of that process.

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Airlines' ability to pay another tax

This consultation argues that since the airlines are already paying heavy charges for their use of UK airports and airspace and since our passengers paid the APD in the UK in 2009, the estimated AIP on aeronautical VHF of GBP 1.3m would not even be noticed.

In 2009, the airlines paid GBP 732 million in UK en-route and terminal navigation charges. This does not include the additional final approach and tower service charges for all the UK airports. Airline passengers paid GBP 2.4 billion in 2009 for air passenger duty (APD) in the UK. – **NB these are all the airlines not just AEA members**

This is a rather astounding idea. A tax that cannot be justified – no matter how small – is still an unjust tax.

Single European Sky

AEA and its members are closely involved in the Single European Sky (SES) programme and a strategy for efficient spectrum use to enable the systems for SES is now under development.

In AEA's opinion, this is the appropriate vehicle to achieve spectrum efficiency – not UK imposed AIP.

Management not Taxation

AEA supports UK DfT involvement in strategic management of aeronautical VHF spectrum in the same way as the spectrum used for radar and radionavigation aids is being handled. We believe, that if Ofcom is really serious about efficient use of spectrum, a strategic management role should be given to the DfT and AIP should not be considered.