

EUROPEAN AVIATION UPDATE

What this paper is about

To provide, for the information of the Liaison Group, a brief round-up of current EU activity in the field of aviation *not* covered by reports which appear elsewhere on the Agenda for this meeting including:

- New Transport Commissioner – paras 1/2
- New UK Government – para 3
- Passenger rights – paras 4/19
 - **Volcanic Ash Crisis – passengers rights – paras 7/14*
 - **Making a claim – personal experience – paras 15/19*
- Emissions Trading Scheme – paras 20/22
- Air Quality – paras 23/25
- Rules and Procedures for Introducing Noise Related Operating Restrictions – paras 26/29
- Airport Charges – paras 30/32
- Slot Allocation – paras 33/38
- Ground Handling – paras 39/41
- Integrated Air-Rail Ticketing – paras 42/44
- Single European Sky (SES) – paras 45/48
- Airport Security Costs – paras 49/51
- Community Observatory on Airport Capacity – paras 52/53
- The Volcanic Ash Crisis – paras 54/59

Points for Discussion

The paper is largely for the information of members but members may like to talk about the paragraphs concerning *Passenger Rights* – paras 4/19

Points for Possible Action

Although the formal consultation has come to an end members may like nonetheless to comment to the EC on what might be seen as shortcomings in Regulation (EC) 261/2004¹ (Compensation for denied boarding or the cancellation or long delay of flights). Beyond that the meeting may wish to ask the Secretariat to keep members up to date on the various issues outlined in this paper.

Note: *Most of the regulations, directives, consultation papers and reports referred to in this report can be readily accessed from the Liaison Group's website at <http://www.ukaccs.info/>. The Secretariat is happy to provide electronic or hard copies of any of these documents if required. The site is regularly updated and is a ready source of current information on European initiatives in aviation.*

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004R0261:EN:HTML>

New Transport Commissioner

1. In February 2010 Siim Kallas, an Estonian, was appointed as the new Vice-President of the European Commission in charge of transport.
2. Siim was appointed as the first Estonian member of the Commission in May 2004 working in the field of economic and monetary affairs. Later he served as Vice-President responsible for administration, audit and anti-fraud. A full profile of the new Commissioner has been posted to the EC website².

New Government

3. It is likely the new UK Government will take a rather stronger line with the European Union (EU) than the last one did. In this connection see section 9 on page 5 of the note³ issued on 11th May 2010 of the agreements reached by the two parties in the new Government in their coalition discussions.

Passenger Rights

4. In December 2009 the European Commission (EC) launched a consultation saying it was time to take stock of what has been achieved and what can still be improved on air passenger rights. According to the EU website the aim of the consultation was "to gather stakeholders' opinions on the existing problems and preferred solutions in order to assess the quality and effectiveness of the implementation and enforcement of Air Passengers' Rights legislation". The closing date for comments was 1st March 2010.
5. There are two key items of European legislation dealing with passengers rights. They are Regulation (EC) 261/2004⁴ (Compensation for denied boarding or the cancellation or long delay of flights) and Regulation (EC) No 1107/2006⁵ concerning the rights of disabled persons and persons with reduced mobility (PRMs) when travelling by air.
6. There is a separate paper on PRMs elsewhere on the Agenda.

Volcanic Ash Crisis – passengers rights

7. The closure of airspace in April 2010 because of the problems with volcanic ash soon gave rise to stranded passengers and not surprisingly it was not long before there was controversy about the first of these regulations - Regulation (EC) 261/2004.
8. The *Air Transport Users Council (AUC)* says that if a flight was within the EU, or if it was a departure from an EU airport to somewhere outside the EU, or if it was to return to the EU from outside the EU on an EU airline, it comes within Regulation (EC) 261/2004. This Regulation states that when a flight is cancelled passengers should have the choice between a refund or "re-routing under comparable transport conditions". The re-routing should be at the earliest opportunity or "at a later date at the passenger's convenience subject to availability". The passenger is also entitled to meals and refreshments, to two free telephone calls, emails, telexes or faxes and overnight hotel accommodation and transfers.
9. But during the volcanic ash crisis some airlines refused to provide such assistance and even where they did some passengers were told they would be offered hotels for only three days. Some passengers, it is said, were made to leave hotels after being told their airline would no longer pay.
10. Unfortunately the regulations do not set out a passenger's rights if the airline fails to provide this assistance or a passenger's rights if he or she is forced to pay for hotels. AUC says if an airline fails to honour its obligations it should, on sight of receipts, reimburse reasonable expenditure of the kind mentioned in the last paragraph. The problem is that the AUC has not got the powers to compel the airlines to refund

² http://ec.europa.eu/commission_2010-2014/kallas/about/profile/index_en.htm

³ <http://www.ukaccs.info/coalitionagreement120510.pdf>

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004R0261:EN:HTML>

⁵ http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_204/l_20420060726en00010009.pdf

passengers – and the airlines know this. On 29th April AUC issued a press release⁶ saying that airlines should make it easier for passengers to get their money back.

11. The airlines argue that these rules were designed to cover short-term incidents and that they should not be held responsible for decisions to shut down the entire blocs of airspace. They feel the rules are unfair. According to a news item published in early May Mike Carrivick, chief executive of the Board of Airline representatives in the UK, which represents a large number of airlines, said that the eagerness of the EU and the UK government publicly to state that airlines have a responsibility under the regulation to accommodate and feed passengers booked on flights cancelled by the volcanic disruptions was a misuse of the regulation. The Regulation was designed for situations where individual flights had been cancelled not for the wholesale shutdown of the airways system imposed by governmental rulings and without any limitation of time., When used in this way the regulation was “draconian, disproportionate and often impractical”.
12. Airlines already have a get-out clause which means they can avoid paying compensation in "exceptional circumstances". Some airlines have said they will cite this clause to avoid paying passengers affected by the ash cloud. This means legal battles which always come down to how exceptional "exceptional" has to be. Of the cases which have come to court so far fewer than half have been decided in the passenger's favour.
13. It may be that the EU will have to step in and take on the airlines on consumers' behalf. If AUC gets many complaints that passengers are being denied their rights it can ask the Civil Aviation Authority, which has enforcement powers, to intervene. We shall see.
14. This is a state of affairs on which members might have views which, notwithstanding that the formal consultation has come to an end, could nonetheless be submitted to the EC. Individual Committee's might perhaps back this up by writing to their MEPs.

Making a claim – personal experience

15. The difficulties sometimes involved in making a claim under these Regulations have been brought home to the author who is pursuing a claim in respect of a flight to Stansted from Bucharest Baneasa airport in Romania on 11th November 2009. The Romanian low cost carrier which cancelled the flight offered no more than to re-book passengers on the same flight the following day. No help was offered with accommodation or subsistence and when questions about this were raised with them they said it would be “considered” on receipt of an e-mail overlooking (perhaps deliberately?) that passengers were travelling and would not have access to e-mail facilities.
16. So the author was forced to go on by taxi to Bucharest Otopeni airport and travelled from there with BA to LHR and thence by national Express bus to STN. This cost €427.01 which, when added to a refund of fare paid for the cancelled flight, and compensation in accordance with the EU Regulation, gave rise to a total claim of €869 or £756.
17. The tactic adopted by the airline in response to this claim has been to stay silent. The same is true of the Romanian National Authority for Consumer Protection which is the body in Romania which according to AUC is responsible for enforcing the European Regulation. The issue has now been raised with the British Embassy in Bucharest and with the European Commission but the author suspects that the matter will not be resolved without resort of the press and the courts. Ignoring all else the author is entitled at least to the fare paid for the cancelled flight but the airline seems intent on keeping even that!

⁶ <http://www.auc.org.uk/docs/306/Volcano%20PRESS%20NOTICE.pdf>

18. Since November the airline in question has stopped flying to STN and now operates its London flights to LTN.
19. The EC's formal consultation has come to an end. Nonetheless on the basis of this experience the meeting might wish to consider commenting to the EC that the provision made for the effective enforcement of the Regulation seems to be deficient. Individual Committee's might perhaps back this up by writing to their MEPs.

EU Emissions Trading Scheme (EU ETS)

20. As previously reported the EC on 24 October 2008 promulgated Directive (2008/101/EC)⁷ which has the effect of including aviation in the EU ETS. It entered into force on 2 February 2009.
21. As we told members last year Member States had until 2 February 2010 to transpose the directive into national law by bringing into force the laws, regulations and administrative provisions necessary to comply with the Directive. On 4 March 2009⁸ the previous UK Government announced the appointment of the Environment Agency (EA) as the UK regulator. The same day the Department of Energy and Climate Change (DECC) launched a stage one consultation⁹ about the transposition of the first stage of the Directive. The closing date for responses was 14th May 2009 and on 25th August 2009 the made *the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2009 (SI 2009/2301)*¹⁰ which came into force on 17th September 2009.
22. On 11th December 2009 DECC launched a consultation on the second stage of transposition¹¹. This involves new Regulations to put in place additional requirements on operators and the remaining powers which the regulators will need to administer the system. The new Regulations will repeal in part and replace the first stage Regulations and provide for full transposition of the Directive. The consultation closed on 5th March 2010. In early may DECC said they were currently finalising the Regulations and it was the intention to lay them before Parliament the summer of 2010.

Air Quality

23. Directive 2008/50/EC¹² appeared in the EU's *Official Journal* on 21 May 2008. The effect of the Directive was to revise the EU's ambient air quality legislation:
 - by merging five legal instruments into a single directive.
 - introducing air quality standards for fine particulate matter (PM2.5) in the air, because of the large health benefits to be obtained.
24. Member States have until 11 June 2010 to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive. On 9th November 2009 Defra launched a consultation¹³ on its approach to transposition. The closing date for comments was 29th January 2010. Having considered the responses the Department at the end of March 2010 made the *Air Quality Standards Regulations 2010 (SI 2010/1001)*¹⁴.
25. As reported last year the Directive obliges the Commission in 2013 to review the provisions related to PM2.5 and, as appropriate, other pollutants, and report to the European Parliament and the Council.

⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:008:0003:0021:EN:PDF>

⁸ [Click here to see the press release](#)

⁹ http://www.decc.gov.uk/en/content/cms/consultations/aviation_euets/aviation_euets.aspx

¹⁰ http://www.opsi.gov.uk/si/si2009/uksi_20092301_en_1

¹¹ http://decc.gov.uk/en/content/cms/consultations/euets_aviation/euets_aviation.aspx

¹² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:152:0001:01:EN:HTML>

¹³ <http://www.defra.gov.uk/corporate/consult/airquality-transposition/index.htm>

¹⁴ http://www.opsi.gov.uk/si/si2010/pdf/uksi_20101001_en.pdf

Rules and Procedures for Introducing Noise Related Operating Restrictions

26. As previously reported EU Directive 2002/30, which came into effect on 28 March 2002, prescribes rules and procedures for introducing noise related operating restrictions at Community Airports. In July 2003 the previous UK Government made the *Aerodromes (Noise Restrictions) (Rules and Procedures) Regulations 2003 (SI 2003/1742)*. These came into effect on 6 August 2003 and provide that the responsibility for undertaking the assessments required by the Directive, and for reaching any consequent decision about operating restrictions (which may include prohibiting the noisiest aircraft from the airport either at certain times or completely), should rest with:

- the Secretary of State for Transport, in the case of airports designated for the purposes of Section 78 of the Civil Aviation Act 1982 (currently the three London airports - Heathrow, Gatwick and Stansted).
- the airport operator, in the case of all other (i.e. non-designated) airports to which the Directive applies.

and that these bodies would be "competent authorities" under Article 3 of the Directive.

27. Article 14 of the Directive required the EC to report to the European Parliament and to the Council on the application of the Directive no later than five years after its entry into force. The report, published on 15 February 2008, can be seen on the EC's website¹⁵. Among other things the Commission said it would examine ways of clarifying the provisions of Directive and its scope. It would also consider whether changes in the current Directive, such as the definition of marginally compliant aircraft, are needed. In doing so, it will take account of the outcome of estimates predicting that the growth in the number of people affected by noise could be reduced by a more stringent definition of marginally compliant aircraft.

28. In July 2008 the UK Department for Transport launched a consultation¹⁶ noting that it proposed to liaise further with the Commission and other member states in the autumn on plans for taking forward the Commission's review, so as to clarify the provisions and scope of the Directive. To inform those discussions the Department asked for comments from interested parties in the UK about the application of the Directive, possible ways to improve it and key elements which should not be lost. The closing date for comments was 19 September 2008. Since then the Department has been waiting for the Commission to finalise its plans and timetable for reviewing the Directive.

29. The Commission says it "is considering the review of the 'airport noise directive' (2002/30/EC) in order to strengthen the implementation of the ICAO balanced approach to noise management." It also wants to enhance the link to Directive 2002/49/EC (the Environmental Noise Directive) so as to reduce the administrative burden for Member States and have a more precise idea of the number of people affected by noise nuisance.

Airport Charges

30. The Airport Charges Directive 2009/12 (ACD)¹⁷ was finally signed off in March 2009. It had been under consideration for some long time. It aims to:

- set common principles to be observed by airport operators when determining their airport charges;
- clarify the relationship between airport operators and airport users by requiring transparency, user consultation and the application of the principle of non-discrimination when calculating charges levied on users; and
- to create strong, independent national authorities in the member states to arbitrate and settle disputes, in order to reach a speedy resolution.

¹⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0066:FIN:EN:PDF>

¹⁶ <http://www.ukaccs.info/dftbalancedapproach.doc>

¹⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:070:0011:0016:EN:PDF>

31. From the spring of 2011 airports across Europe with more than 5 million passengers will be required to comply with the provisions of the ACD. In 2008 there were 13 UK airports with more than 5 million passengers – Heathrow, Gatwick, Stansted, Manchester, Luton, Birmingham, Edinburgh, Glasgow, Bristol, Newcastle, Liverpool, Nottingham East Midlands and Belfast International.
32. Member states have until 15th March 2011 to bring into force the laws, regulations and administrative provisions necessary to comply with the ACD. In its consultation on *Reforming the Framework for the Economic Regulation of Airports*, the DfT explained that the (previous) Government intended to give permanent effect to the ACD through the proposed new licensing regime. In its decision document of December 2009, the previous Government said it felt the new airport licences would be an appropriate and straight forward way of implementing the other ACD requirements. However, there is uncertainty about when a Bill to implement the conclusions of the review of the regulatory framework will receive Royal Assent and also about when further work necessary to implement it in full will be completed. The DfT therefore plans, as an interim measure to meet the transposition deadline, to introduce secondary legislation to implement the ACD in Great Britain. Its aim is to consult on this legislation in draft in the summer of 2010. Elsewhere on the Agenda members will be considering the previous UK Government's proposed new system of regulation for airports.

Slot Allocation

33. We have reported year by year about possible changes to the EU rules on airport slot allocation.
34. Members will recall that the slot allocation rules are contained in *Regulation (EEC) No 95/93*¹⁸ as amended. The latest amendments are contained in *Regulation (EC) No 793/2004*¹⁹ which aimed to provide more clarity and transparency to the current rules notably by taking away any ambiguity in relation to the principles and the procedures of slot allocation, the status of the slot coordinator and the imposition of sanctions to prevent any abuse of slots that would further worsen the scarcity of slot capacity at congested Community airports. The 2004 amendments also included clarification of the definition of a slot as a 'permission' rather than 'entitlement', thus eliminating any risk of a slot being interpreted by airlines as a property right.
35. Two years ago we reported that at the end of April 2008 the Commission had issued a *Communication*²⁰ on the application of the slot allocation Regulation. The proposals outlined in the Communication aimed to clarify a number of issues in order to ensure a better implementation of the existing rules and to improve the efficient use of scarce capacity at congested Community airports. In particular, it signalled the acceptance of "secondary trading" of airport slots between air carriers. The Communication also explained how the rules relating to the independence of the slot coordinator, new entry, and local guidelines were to be interpreted. There is more about this communication on the Liaison Group's website²¹.
36. In a recent update the Commissions says that in line with the mandate from the European Parliament and the Council following the last revision of the slot allocation Regulation they have been assessing the application of the current legislation and the need to improve it. The evolution of secondary trading, as well as the other aspects mentioned in the 2008 Communication, are being analyzed. The Commission has decided to employ a consultant to help in carrying out an impact assessment developing different scenarios. In the light of this work the Commission will evaluate whether and to what extent the Regulation needs to be amended.

¹⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993R0095:EN:HTML>

¹⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004R0793:EN:HTML>

²⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0227:FIN:EN:PDF>

²¹ <http://www.ukaccs.info/euro.htm#slot>

37. Meanwhile there has been continued discussion in the *Working Group* of the impact of the slot allocation regulations on the preservation of regional UK services to and from Heathrow and Gatwick which are important for passengers bound to and from the regions who need to interline between air services. Elsewhere on the Agenda there is a paper on the whole issue of regional air services to London.
38. Last year we reported that the Commission had submitted proposals temporarily to suspend the “use it or lose rule”. The present rules force airlines to use the slots at busy airports at least 80 percent of the time or face losing them in the following season. But some airlines argued that this obliged them to keep flying even when, because of the recession, this would be uneconomical. The Commission said this measure was for only one season. However, depending on how serious the situation appeared as the 2009-2010 winter season approached, the Commission might decide to renew all or part of the scheme. In the event the Commission did not put forward any proposals for the suspension of this rule during the 2009/2010 season but in response to the volcanic ash crisis – see paragraph 56 below - the EC did propose to allow the airlines to retain take-off and landing slots which were left unused during the crisis.

Ground Handling

39. This is another long running saga. As reported on last year an article on Ground Handling on the Commission's website²² says that the Commission is considering the launch of a proposal to modify the present Directive. This proposal would aim “at a gradual increase of competition in the ground handling market while taking into account appropriate social protection of ground handling staff, and at a clarification and simplification of a number of provisions where necessary.”
40. In December 2009 the Commission launched a consultation to collect views on the current implementation of the Directive and possible options for revision. The consultation closed on 17 February 2010.
41. The Commission tell us that the process of assessment is on-going. It covers the enhancement of the “functioning of the ground handling market, to ensure a better quality of ground handling services while better taking into account the social, safety and security aspects”. Once the assessment is complete the EC will decide on the need for a revision of the Directive and, if so, on the “modalities of the revision”.

Integrated Air-Rail Ticketing

42. As reported last year the Commission at the end of July 2008 launched a consultation²³ on the integration of air-rail ticketing.
43. According to the Commission integrated ticketing can be an important factor in generating demand for intermodal air-rail services. The need for integrated ticketing arises when a passenger intends to travel using several transport modes and/or several transport operators within the same mode. Such a service requires the availability of easily accessible information on the various parts of the journey as well as the adoption of interactive reservation systems which make it possible to make reservations for the whole journey. However, information is often available only separately for each mode of transport and/or by operator. The introduction of integrated ticketing thus requires the development of integrated information, reservation and sales systems. The deadline for responses was 30 September 2008.
44. The Commission tell us the consultation showed there is interest in integrated ticketing among stakeholders and in particular travellers. However, they said, “integrated ticketing is only one facet of air-rail inter-modality”. For instance the *Community Observatory on Airport Capacity* – see paras 52-53 below - is “dedicated to inter-modality and considers all aspects including - for instance - the substitution effect between air and rail and the

²² http://ec.europa.eu/transport/air/airports/ground_handling_market_en.htm

²³ <http://www.ukaccs.info/intticketingconsult.pdf>

situation (and practices) of airports which are or are not connected to rail". In particular after the latest closure of airspace due to the volcanic ash cloud the EC "have given further attention to inter-modality so that transport modes become as interchangeable as possible" – see para 58 below.

Single European Sky (SES)

45. We reported in detail last year on the progress being made in implementing the concept for a Single European Sky which has the following objectives:
 - to restructure European airspace as a function of air traffic flows, rather than according to national borders;
 - to create additional capacity; and
 - to increase the overall efficiency of the air traffic management system.
46. Key to this is SESAR (*Single European Sky ATM Research*) which, having been fully defined in the *Air Traffic Management Master Plan*²⁴ published in November 2008, is now in its Development Phase. When this phase is complete in 3-4 years time the new system will move into its Deployment Phase on which the EC and Eurocontrol will work together to build the new infrastructure both in Europe and in partner countries.
47. Meanwhile, on the legislative front the EC on 25 June 2008 unveiled its second package of legislation for a Single European Sky (SES II). As noted in the detailed account discussed at the Annual Meeting last year, the Commission had published the second package because the Single European Sky regulation adopted in 2004 (SES I) had not delivered the expected results in some important areas. The process of integration within functional airspace blocks (FABs), regardless of national borders, had encountered numerous hurdles. Air traffic control was mistakenly related to national sovereignty. This was a complex argument, but, instead of prompting innovative solutions for exercising sovereignty, it has been used to block cross-border integration. Moreover, there has been "little progress in the overall efficiency of the design and use of the European air network".
48. The second package was finally promulgated in Regulation (EC) No 1108/2009²⁵ dated 21 October 2009.

Airport Security Costs

49. On 11 May 2009 the Commission adopted a proposal for a Directive (COM 2009/30)²⁶ on aviation security charges in Europe. The aim is to ensure transparency, non-discrimination and consultation of airlines when fixing the level of charges, as well as the cost-relatedness of security charges. It also proposes to establish an independent supervisory authority in each Member State - for full details see the EC report²⁷ which accompanied the proposal and the EC Press Release²⁸.
50. On 21 July 2009, the Department for Transport launched a consultation on the Commission's proposed directive. The primary purpose of the consultation was to help inform the UK's negotiating position during working groups of the Council of the European Union held in the Autumn of 2009. The deadline for responses was 25 September 2009 and the previous Government's response²⁹ was published in January 2010. This said the previous Government believed there would be strong preference on the part of the European Parliament (EP) that Governments should assist in the funding of security costs. The Department therefore expected some difficult discussions between Member States and the EP on the 'user pays' principle. The previous

²⁴ http://ec.europa.eu/transport/air_portal/sesame/doc/com_2008_0750_en.pdf

²⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:309:0051:0070:EN:PDF>

²⁶ http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=197881

²⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0030:FIN:EN:PDF>

²⁸ [Click here](#)

²⁹ <http://dft.gov.uk/consultations/closed/aviation-security-charges/govresponse.pdf> v

Government said that the UK would “work towards achieving a fair and proportionate outcome that balances the interests of passengers and airports.”

51. The Department has been asked for the present position and their reply is awaited.

Community Observatory on Airport Capacity

52. The *Community Observatory on Airport Capacity* (COAC) was inaugurated on 4 November 2008. It will advise the Commission on developing measures to ameliorate the capacity of the European airport network and will play “an essential role in the implementation of the Commission's action plan for airport capacity, efficiency and safety in Europe”.

53. There is more about COAC on the Commission's website³⁰

The Volcanic Ash Crisis

54. In April 2010 the Eyjafjallajökull volcano in Iceland erupted and the prevailing weather conditions meant that clouds of volcanic ash blew towards the UK and large areas of continental Europe. This led to the closure of huge areas of European airspace, and thus of airports, giving rise to huge disruption and thousands of stranded passengers. Following discussions, notably with the manufacturers of aircraft engines new guidelines were agreed and after several days the skies were re-opened. In early May another cloud of volcanic ash drifted south-eastwards and this was dense enough to close some Irish and UK airspace.

55. Of course it was not long before there was speculation in the press that the original closure of air space in April had been an overreaction and anyway that aircraft could have been allowed to fly at lower levels. It is certain that the impact on the finances of airlines and airports was huge – press reports said that the crisis cost BAA £28m and Newcastle more than £1m - and there were soon demands for compensation from the Government and/or the EU. And there were reports that a large rise in air fares could be expected. Passengers, too, were out of pocket and demanded compensation from the airlines and controversy soon arose about the Regulation (EC) 261/2004³¹ (Compensation for denied boarding or the cancellation or long delay of flights) see paras 7 -14 above.

56. It is estimated that the April crisis led to the cancellation of 10,000 flights across Europe affecting 10 million passengers and that the cost to the industry might be as much as £2.2 billion. On 27th April the responsible EU Commissioner, Siim Kallas, issued a statement the text of which is reproduced in the Annex to this paper. The statement talked about:

- relaxing the state aid rules to allow countries to make loans and guarantees to airlines at market conditions.
- allowing airlines to retain take off and landing slots which were left unused during the crisis.
- deferring en-route charges for a defined period of time.
- maintaining air passenger rights provided by EU law.
- ensuring the regulations are applied in a consistent way across Europe.
- maintaining a level playing field so that one company does not get unfair advantage over another by failing to fully meet its obligations.
- ensuring the crisis is not used to allow unfair assistance to companies which is not directly related to the crisis.

³⁰ http://ec.europa.eu/transport/air/airports/observatory_en.htm

³¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004R0261:EN:HTML>

57. Apart from these practical measures to provide relief to the air transport sector so that they are better able to weather the crisis the Commission said it would be working with member states and stakeholders on structural changes “to ensure we do not face this situation again”.
58. In early May there was a meeting of EU Transport Ministers who agreed to work on four priority areas:
- The EC would lead work to present new EU proposals for managing risk from volcanic activity to the ICAO in September 2010.
 - The EC would fast track the Single European Sky package. We need a single European regulator for a single European sky. This would not solve every problem. But it would mean a much faster co-ordinated response in a crisis. Major elements of the Single Sky Package (see paras 45-48 above) would be in place by the end of 2010, including a crisis cell.
 - The EC would work with national authorities to draw up guidance to ensure uniform application of rules for passengers.
 - Member States supported the EC's approach on the need for flexible measures to ease the pressure on airlines. The EC also stood ready to draw up European guidelines so that that if Member States decided to grant state aid undue distortions to competition would be avoided.
59. The Ministers also said that the crisis had exposed structural weaknesses in the ability of different European transport modes to substitute for each other. Europe needed now to:
- remove transport bottlenecks;
 - build pan-European networks;
 - put in place pan-European mobility planning.

Stuart Innes
May 2010

Statement by Vice-President Siim Kallas on the economic impact of the volcanic ash cloud on the air transport industry

Brussels, April 27th 2010

I have today informed the College of Commissioners on a possible package of measures to help the air transport industry to overcome this difficult crisis.

I want to highlight what I see as the main elements where we can provide relief at European level.

First, there are **temporary measures** where flexibility is needed in applying EU rules to ease the pressure on airlines.

For example:

1. Airlines need to be able to keep **slots** which were not used during this crisis period.
2. Member States should be able to provide temporary derogations from **scheduling restrictions** – such as night flying restrictions – to bring stranded passengers home as quickly as possible and get freight deliveries back to normal.
3. Temporary measures could also be foreseen to help airlines with short-term cash flow problems, by deferring for a limited period the **en-route charges** normally paid by airlines to air traffic control.

Second, there are other areas where **immediate action** is needed to ensure co-ordinated European solutions.

1. The Commission considers that the exceptional circumstances of recent days may justify support measures to offset losses incurred. Any support granted by Member States must respect a level playing field. If support from Member States takes the form of state aid measures, it must be granted on the basis of uniform criteria established at European level. It cannot be used to allow unfair assistance to companies which is not directly related to the crisis. The Commission is prepared to present a communication putting clear and precise guidelines in place.
2. We need pan-European enforcement of EU passenger rights legislation. Again, there must be a level playing field. No airline company should benefit from a competitive advantage by avoiding its legal obligations. The European Commission will be very active in ensuring common standards of enforcement this area.
3. We need urgently to address the risk management planning for any future disruption caused by volcanic activity. The Commission will take the lead to move this process forward. It will create an expert group of all stakeholders and develop a new European methodology for safety risks and risk management. The aim is for the EU to submit a proposal for a new regulatory framework to the International Civil Aviation Organisation in September 2010.

Finally, there are more **medium-term** structural issues we need to address.

1. We need to fast track the Single Skies package. We need a single European regulator for a single European sky. Stronger European co-ordination will not solve every problem. But faced with such a pan-European crisis, it would have enabled a much more agile response. The European Commission stands ready to fast-track its work to have many core elements of the Single European Sky II package in place by the end of this year. We will look for political support from transport ministers at the extraordinary meeting on May 4th to take this forwards.
2. We need to address pan-European crisis planning for transport for any future major disruption. This is a long-term structural issue which needs serious work and reflection. In particular, we need to look at the ability of one transport mode to supplement another (so-called "co-modality"). If there is political support from transport ministers on May 4, I would like to see the European Commission given a political mandate to work on these issues, and to report back to ministers.
3. The Commission will establish an aviation platform. I intend to create a structure to bring together all aviation stakeholders at European level to ensure better co-ordination of measures impacting on the aviation sector over the long term, and to follow up these crisis measures.

This crisis has put in stark relief the critical role that the air transport sector plays in the functioning of the European economy. Sometimes we do not always appreciate something until it is not there. Millions of businesses and citizens across Europe are highly dependent on a functional and competitive airline industry. It is in our interest to get the air transport sector over this crisis and back to normal operating conditions. At European level, the Commission will do everything possible to make that happen.