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European Commission
Directorate-General for Mobility and Transport (MOVE)

B-1049 Brussels
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Slot Waivers under Regulation (EEC) No 95/93 due to COVID-19

Dear [REDACTED]

We have been following with great concern the developments surrounding the Coronavirus outbreak, particularly in so far as the spread in Italy is concerned. As expected, the requirement to self-quarantine for 14 days has had a huge dampening effect on bookings with several passengers requesting cancellation of their flights or rebooking at a later date, even though flights are operating normally. In view of this, several airlines have found themselves in a situation where they have to strongly consider cancelling scheduled flights; a case in point being the flights to/from Milan Linate. Airlines cannot afford to operate empty or near-empty flights, apart from the fact that this is not environmentally sustainable.

However, cancellation of flights can have huge implications on grandfather rights acquired over the years on slots. Considering the 80:20 rule under the Slots Regulation, allowing airlines to cancel up to 20% of scheduled flights in a particular IATA Season at slot-congested airports without losing slots, we are now about to start the IATA Summer season (between end of March and end of October 2020) with no visibility as to whether COVID-19 will come to an end. This has given rise to great concerns that if airlines start cancelling flights at the beginning of the season, they will very soon find themselves falling foul of the 80:20 rule, particularly if there are issues with the aircraft later on in the season. The net effect is that they will lose slots during the season and, also the following year, slots will be lost as airlines would be in breach of the Regulation.

At this point, Malta would like to highlight its concerns on the Milan Linate slots, without excluding that this may very soon extend to Rome or possibly the whole of Italy, as well as other European countries depending on how COVID-19 develops. Airlines need regulatory intervention to provide flexibility not only for airlines to best match demand in view of the dampening of demand and the resulting decline, but also to prepare for the recovery, as and when this happens. Furthermore, the regulatory intervention should not be localised at the particular airport impacted by COVID-19 but also at the other end of the flight in question.

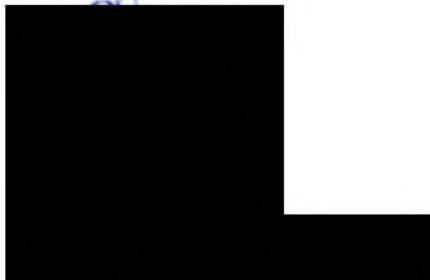
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It is noted that at this stage while slot coordinators have agreed on a slot waiver on flights to China and Hong Kong (China), there have not been similar waivers on flights to EU affected areas. We are therefore writing to you to seek clarification on the Commission's intention in this regard, in line with the provisions of Regulation 95/93. We believe it is justified for all airlines to be able to invoke the "force majeure" provision of the Slot Regulation, and for EU slot coordinators to grant such a slot waiver, given that airlines are facing extraordinary circumstances beyond their control and strict application of the 80:20 rule would unfairly penalise airlines. In the past, a similar regulatory intervention was introduced in 2009 in view of the global economic and financial crisis (See Regulation 545/2009: <https://eur-lex.europa.eu/legal-content/FN/TXT/?uri=celex:32009R0545>)

We would like to correctly advise our airlines as to the procedure to follow in order not to lose slots due to this extraordinary circumstance.



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Ministry for Transport, Infrastructure and Capital Projects