



BRIEFING PAPER

Number 9062 27 November 2020

Airport slots

By Lewis Pickett & David Hirst

Contents:

1. Overview
2. Legal framework governing slot allocation in the UK
3. Current allocation of airport slots in the UK
4. Main criticisms of slot allocation
5. Slot reform



Contents

Summary	3
1. Overview	5
1.1 What is the purpose of slot allocation?	5
1.2 What is an airport slot?	6
1.3 Who own airport slots?	6
1.4 What is the role of the airport coordinator?	7
1.5 How are slots allocated?	8
Historic precedence ('grandfather rights')	9
Use It or Lose It (80/20) Rule	10
New entrants	10
Insolvency	11
1.6 How is the use of slots monitored and enforced?	12
1.7 What is secondary trading?	14
2. Legal framework governing slot allocation in the UK	16
2.1 EU Airport Slot Regulation	16
2.2 Worldwide Airport Slot Guidelines (WASG)	16
2.3 Roles and responsibilities in the UK	19
Airport Coordination Limited (ACL)	19
Competition and Markets Authority (CMA)	20
Civil Aviation Authority (CAA)	20
3. Current allocation of airport slots in the UK	22
3.1 Congested airports in the UK	22
3.2 Slots at UK airports	23
Dominance of airlines at UK airports	24
Availability of slots at UK airports	25
3.3 Secondary trading	26
4. Main criticisms of slot allocation	28
Inefficient allocation of resources	29
Perverse incentives	30
Historic precedence (grandfather rights)	30
Use it or Lose it (80/20) Rule	32
New entrants	33
Problems with secondary trading	35
5. Slot reform	37
5.1 Market-based mechanisms	39
5.2 Deviating from the global guidelines	40
Heathrow Airport: slot reform and airport expansion	41
5.3 Slots reform and Covid-19	42
Impact of Covid-19 on the UK aviation market and slots at UK coordinated airports	43
European Commission suspension of the 80/20 rules	43
5.4 Reform of slot allocation in the UK from 1 January 2021.	44

Summary

This paper explains what airport slots are and the rules governing how they are allocated within the UK and globally as well as the main criticisms of those rules and likely prospects for reform.

Airport slots

Many airports around the world are congested because they do not have enough capacity to meet demand from the airlines and other aircraft operators who wish to use them. An airport slot is basically permission to use the infrastructure (runway, terminal, apron, gates, etc.) of an airport to take off or land on a specific date and at a specific time. Slot allocation is used, at the most congested airports (known as Level 3 or 'coordinated' airports), to allocate and manage limited capacity, with the aim of maximising the efficiency of an airport.

Slots at UK airports

The UK has 18 airports classified as 'congested', eight of which are Level 3 'coordinated' airports. Heathrow, Gatwick, London City, Stansted, Luton, Manchester and Birmingham are all coordinated airports. Bristol is also coordinated from 23:00 to 07:00 in the summer season. A diverse mix of UK and foreign carriers hold slots at the UK's busiest airports. In 2018, 185 airlines, including 170 non-UK based airlines, operated at the UK's Level 3 airports. A small number of carriers have sought to create 'hubs' at key airports, improving their efficiency and allowing them to create route networks, but this has meant that they have become dominant carriers at those airports, giving rise to questions about competitiveness. In 2019:

- British Airways held around half the slots at London Heathrow (50%) and London City Airport (52%);
- EasyJet held 45% of the slots at both London Gatwick and Luton and over half the slots at Bristol (54%); and
- Ryanair held 73% of the slots at London Stansted.

The slot allocation rules

Since the early 1990s, slot allocation in the UK has been governed by the EU Airport Slot Regulation ([Regulation 95/93\(EEC\)](#)) ('the EU rules'). The EU rules came into force in 1993 and were later transposed into UK law by the *Airports Slot Allocation Regulations 2006* ([SI 2006/2665](#)). The EU rules retain the principles of global industry guidelines called the Worldwide Airport Slot Guidelines (WASG).

The UK left the European Union on 31 January 2020 and is currently in a Transition Period until 31 December 2020, during which time EU law continues to apply. The EU rules have been transposed into UK law. This means those rules will still apply after 31 December until such a time as the UK Government decides to replace them with new national rules.

The main features of the global guidelines, and the EU rules, currently in place in the UK are:

- **Historic precedence or grandfather rights.** These enable airlines to retain their slots if they have used them 80% of the time in the last equivalent winter and summer season. The **80/20 or Use it or Lose it Rule** is used to monitor compliance and determine whether airlines can retain their legacy slots. The European Commission has waived the rule for the summer and winter seasons in

2020 because of the coronavirus pandemic. The global guidelines say that historic slots may not be withdrawn from an airline to accommodate new entrants or any other category of aircraft operator. Confiscation of slots for any reason other than proven, intentional slot misuse is not permitted;

- **An independent body, known as the airport coordinator, is responsible for allocating slots.** The UK coordinator is [Airport Coordination Limited \(ACL\)](#). ACL has an arms-length relationship with the Department for Transport (DfT) and the regulator, the Civil Aviation Authority (CAA). Neither the DfT nor the CAA have any involvement in the slot allocation process; and
- Protections ensuring that 50% of new requests for slots are allocated to **new entrants**.

Slot reform

There has been increased interest in this somewhat technical area of policy in recent months due to the severe impacts on air travel of the coronavirus pandemic, government initiatives to deal with it and how airlines have reacted to the unique challenges it presents. Some have suggested that the combination of the UK's exit from the European Union, the impacts of the pandemic and the drive to 'net zero' by 2050 present an opportunity to radically reform slot allocation in the UK to create a more efficient, competitive and environmentally sustainable aviation industry.

The Department for Transport's [draft aviation strategy](#), published in 2018, made the case for reforming the slot allocation process. The DfT argued the current allocation system "is not designed to stimulate a competitive market environment and has no means of taking into account broader objectives". The DfT said it wanted to make administrative changes to how the current process works as well as potential reforms to improve competition, efficiency and domestic and international connectivity.

At the moment, the UK applies EU rules on slot allocation and will continue to do so after 31 December 2020 until such a time as the UK Government legislates to create a new UK-specific slot allocation system. The EU rules are based on the worldwide airport slot guidelines, produced by the International Air Transport Association (IATA), with some local variations. There is a question as to how far national governments can or would plausibly deviate from the global guidelines. The DfT has said that it is committed to "work constructively with the industry, IATA and the countries the UK has aviation links with, to consider how to develop the existing slot allocation system to deliver the best outcomes for the consumer".

Information on other aviation-related matters can be found on the [Aviation Briefings Page](#) of the Parliament website.

1. Overview

1.1 What is the purpose of slot allocation?

The main purpose of slot allocation is to maximise the efficiency of an airport. Slot allocation, in particular, is used to allocate and manage limited capacity at congested airports.

Many airports around the world are congested because they do not have enough capacity to meet demand from the airlines and other aircraft operators who wish to use them. This can be because an airport does not have enough space on the runway or in the terminal, either throughout the day or at peak times, or because governments or local authorities have imposed conditions that restrict the use of an airport, and expansion is not possible in the short-term.

For the purposes of slot allocation, airports fall into three categories or levels, depending on the degree of available capacity:

Level 1: airports which generally have enough capacity to meet demand from airport users at all times.

Level 2: airports where there is potential for congestion during some periods of the day, week, or season which can be resolved by schedule adjustments mutually agreed between the airlines and a facilitator. A facilitator is appointed to facilitate the planned operations of airlines using or planning to use the airport.

Level 3 ['coordinated airports']: airports where a lack of capacity or restrictions imposed by governments and other authorities make it impossible to meet demand. At these airports, a coordinator is appointed to allocate slots to airlines and other aircraft operators using, or planning to use, the airport as a means of managing the declared capacity.¹

This paper is focused on the processes in place at Level 3, or coordinated, airports.

In 2019, there were 204 coordinated airports around the world. These airports served 1.5 billion passengers - 43% of all global air traffic.² The number of coordinated airports has increased over the last decade because of increased demand for air travel and a lack of airport expansion. According to the International Air Transport Association (IATA), 30,000 routes in 2017 had a slot at at least one end, and over 60% of these routes, had a slot at the origin and destination airport.³

The way slots are allocated has consequences for how other parts of the aviation industry work. For example, slot allocation can affect competition between airlines and airports and the routes and services offered to different destinations.

¹ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, para 1.4.1

² IATA, [Worldwide Airport Slots: factsheet](#), December 2019

³ International Air Transport Association (IATA), IATA Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019

1.2 What is an airport slot?

An airport slot is basically permission to use the infrastructure (runway, terminal, apron, gates, etc.) of an airport to take off or land on a specific date and at a specific time.⁴ Slots are not route, aircraft, or flight number specific.⁵ Airlines, for example, can change a slot from one route to another.⁶

An independent body, known as the airport coordinator, is responsible for allocating slots (see [section 1.3](#), below).

Airlines and other aircraft operators do not pay for their slots initially. However, there are airport charges and other costs that airlines must pay in order to use their slots.⁷ Once slots have been allocated, they can be swapped, sold, leased or shared between airlines and other aircraft operators (see [section 1.6](#), below).

1.3 Who own airport slots?

Even though airlines frequently buy, sell and lease slots they do not technically own them. The EU rules that currently apply in the UK do not specify who legally owns slots. The Institute for Economic Affairs (IEA) in 2003 called on the UK Government and the EU to decide, as a minimum, who the legitimate owners of slots are: government, airports or airlines.⁸ Governments, airports and airlines all (in theory) have a claim to be the 'owner' of a slot for different reasons. The case for each has been advanced in the past.⁹

Governments, it has been suggested, have a claim because slots involve the use of a nation's airspace.¹⁰

Airports can claim to own the slots, as they, after all, own the runways and the terminals. The IEA, at the time, pointed out that leaders across the aviation industry, not just airport operators, supported the idea of granting ownership rights for slots to airports. According to the IEA, Stelios Haji-loannou, easyJet's founder, championed the "case for airport operators to assign slots in the form of tradable property rights".¹¹ He told the IEA:

A slot is really forty-seven seconds of a runway plus the associated use of taxiways, apron space to park the aircraft and terminal facilities. You therefore have to reach the conclusion that the slot belongs to whoever built the runway in the first place.¹²

⁴ EU Airport Slot Regulation, [Regulation 95/93\(EEC\)](#)

⁵ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020 para 8.10.1; EU Airport Slot Regulation, [Regulation 95/93\(EEC\)](#), Article 8a 1a.

⁶ Airlines or other aircraft operators must inform the airport coordinator if they plan change the use of a slot.

⁷ Adam Smith Institute, [READY FOR TAKEOFF: Building competition in the aviation industry](#), Briefing Paper, June 2019.

⁸ [End Uncertainty Over Ownership of Airport Slots says new IEA paper](#), Institute for Economic Affairs, 28 March 2003.

⁹ Institute of Economic Affairs, [A Market in Airport Slots](#), March 2003 p.29-33

¹⁰ Institute of Economic Affairs, [A Market in Airport Slots](#), March 2003 p.30

¹¹ Institute of Economic Affairs, [A Market in Airport Slots](#), March 2003 p.30

¹² Institute of Economic Affairs, [A Market in Airport Slots](#), March 2003 p.30

Tom Bass, one of the authors of the IEA's 2003 report, in contrast, questioned why airport shareholders should "make a windfall profit from scarce supply?".¹³

Airlines have argued that since they put the effort and investment into buying aircraft and building up routes, and as slot allocation rules give them the right to continue using them, they should be entitled to recoup any increase in the value of their slots. The Civil Aviation Authority has said "airlines are likely to have strong views about the impact of removing grandfather rights on their investment decisions, and about greater clarity around property rights acquired with a slot."¹⁴

ACL has warned that the ability of airlines to buy, sell and lease slots (secondary trading) has contributed to the perception among airlines that slots are their "own assets", which they can raise finance against. ACL have stated this view may:

lead to carriers facing greater pressure from financiers with deep pockets to challenge coordination decisions affecting slots over which financiers have taken security and in turn taking legal action against the coordinator. Such legal action diverts the coordinator's resources and can lead to unexpected legal outcomes which could de-stabilise the slot allocation system.¹⁵

Both Labour and Conservative governments have rejected airlines' claims to slots in the past. Sir Malcolm Rifkind, a former Secretary of State for Transport, told the Transport Committee in 1992 that "no airline has a legal right to a landing or take-off slot. Rather, airlines have permission and this must be subject to the public interest".¹⁶ The IEA pointed out that:

During the negotiations over whether BA should surrender slots at Heathrow and Gatwick in order to gain regulatory approval for its proposed alliance with American Airlines, John Prescott, the Deputy Prime Minister who held overall responsibility for transport issues, argued that airlines did not own the slots they held at congested airports. In an interview on BBC Radio 4's World at One on 11 August 1998, he observed, 'I have always been clear in my mind: the slots don't belong to BA. The slots belong, I believe, to the community.'¹⁷

1.4 What is the role of the airport coordinator?

At Level 3, or coordinated, airports an independent airport coordinator is responsible for allocating slots and monitoring their use in a neutral, transparent and non-discriminatory way. The global guidelines and the EU rules (see [section 2](#), below) stipulate that the airport coordinator

¹³ Institute of Economic Affairs, [A Market in Airport Slots](#), March 2003 p30

¹⁴ Civil Aviation Authority, [CAA Response to 2019 Government Consultation Aviation 2050: the future of UK aviation](#), July 2019

¹⁵ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁶ Parliamentary Select Committee on Transport, oral evidence, 15 May 1992, in response to Q847 by Mr Fry

¹⁷ Institute of Economic Affairs, [A Market in Airport Slots](#), March 2003

must be independent, both functionally and financially, from any interested party, including governments, airlines and airports.¹⁸

The UK coordinator, for example, is [Airport Coordination Limited \(ACL\)](#) (see [section 2.3](#), below). ACL has an arms-length relationship with the Department for Transport (DfT) and the regulator, the Civil Aviation Authority (CAA). Neither the DfT nor the CAA have any involvement in the slot allocation process.

At coordinated airports, there is also a coordination committee composed of the carriers, the airport, the air traffic controller (usually NATS)¹⁹ and the coordinator itself:

The Committee has a role of advising on a number of airport capacity issues, especially runway capacity, including the coordination parameters to be used, ways to increase capacity, methods of monitoring the use of allocated slots, as well as on any serious problems encountered by new entrants at the airport in regard to their slots, and generally to mediate between the parties concerned on complaints concerning slot allocation.²⁰

1.5 How are slots allocated?

Slots are initially allocated twice year, once for the summer season and then for the winter season. However, outside of this initial allocation, slots can be returned to the coordinator and reallocated, sometimes at very short notice.

The graphic below shows the annual slot allocation cycle.²¹



Source: [ACL Slot Coordination – Presentation](#), September 2016

The Worldwide Airport Slot Guidelines (WASG or ‘global guidelines’) set out principles for how slots are allocated. These guidelines, according to

¹⁸ EU Airport Slot Regulation, [Regulation 95/93\(EEC\)](#), Article 4; IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, para 5.2.3

¹⁹ For more info on NATS, see Commons Library briefing paper [Aviation: National Air Traffic Services \(NATS\)](#), CBP 1309, August 2012

²⁰ Guiomard, C. (2016) [Airport Slots: Can Regulation be Coordinated with Competition?](#), DCU Business School, p4

²¹ ACL, [ACL Slot Coordination – Presentation](#), September 2016

IATA, have been fully implemented at 90% of the world's Level 3 airports, with the remaining 10% working towards full implementation.²² In some instances, the guidelines have been incorporated into domestic laws and regulations. Examples include:

- European Council Regulation No 95/93 ['the EU Slot Regulation'];
- Sydney Airport Slot Management Scheme 2013; and
- India's Guidelines for Slot Allocation.²³

While the global guidelines are not legally binding (despite being the globally accepted standard), national rules (including the EU rules) often are. This means that the way airport coordinators apply the rules varies around the world, with some more constrained in than others (e.g. in the waiver of the '80/20 rule' at times of national or international crisis – see below).²⁴

Under the global guidelines, there is a set of primary criteria that coordinators use to allocate slots. These criteria mainly deal with how slots are allocated between incumbent airlines and new entrants. The key primary criteria are:

- historic precedence (also known as grandfather rights);
- the Use it or Lose It (or 80/20) Rule; and
- the new entrant rule.²⁵

If it is not possible to allocate slots using the primary criteria then the global guidelines also include a broader, secondary set of criteria.²⁶ The secondary criteria enable coordinators to take account of other factors in how they allocate slots, such as competition, connectivity to different markets and the needs of passengers and shippers.²⁷

Historic precedence ('grandfather rights')

Under the global guidelines, airlines wishing to use the same summer or winter slots again the next season are given priority if they have used these slots at least 80% of the time in the last equivalent season.²⁸ This is one of the key principles governing the allocation of slots worldwide, referred to as historic precedence or 'grandfather rights'.

These rights cannot be arbitrarily removed. The global guidelines say:

... historic slots may not be withdrawn from an airline to accommodate new entrants or any other category of aircraft operator. Confiscation of slots for any reason other than proven, intentional slot misuse is not permitted.²⁹

²² IATA, Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019

²³ Ibid.

²⁴ ACL Ltd, [ACL Guidance – Treatment of Cancellations following SARS-CoV-2 Slot Usage Alleviation](#), September 2020

²⁵ Op cit., [Worldwide Airport Slot Guidelines](#) (1st ed.), section 8.3

²⁶ Ibid., section 8.4

²⁷ Ibid., section 8.4

²⁸ Op cit., [Worldwide Airport Slot Guidelines](#) (1st ed.), section 8.1

²⁹ Op cit., [Worldwide Airport Slot Guidelines](#) (1st ed.), section 8.1

Use It or Lose It (80/20) Rule

An airline or other aircraft operator is entitled to continue using the same slot in the next scheduling period (the next summer or winter season) if it has used that slot for at least 80% of the previous period. This is known as the Use It or Lose It (80/20) Rule. The interpretation and application of this rule can vary between coordinators in different countries.

Under the EU rules that currently apply in the UK (see [section 2](#), below) the Use It or Lose It Rule has been suspended several times in the past 20 years, including after:

- The 9/11 terror attacks in 2001;
- The launch of the Iraq War in 2003;
- The outbreak of SARS in 2003; and
- The global financial crisis in 2009.³⁰

The European Commission suspended the rule for the summer and winter seasons in 2020/21 because of the coronavirus pandemic.³¹ On 30 March, the EU waived the 80/20 rule until October 2020 and in September decided to extend the waiver until March 2021. Alex Cruz, the former Chief Executive and Chairman of British Airways, told the Transport Select Committee that many airlines would have faced bankruptcy without the waiver.³²

Not all airlines, however, supported the waiver. Wizz Air, a low-cost airline based in Hungary, called for the rule to be reinstated on the grounds that incumbent airlines have been allowed to hold onto slots that they have no intention of using in the immediate future given the collapse in global air travel. József Váradi, CEO of Wizz Air Group said “slot blocking is a fraud against the tax payer as well as the travelling public.”³³

New entrants

Once historic slots are accounted for the remaining slots are brought together in what is called the ‘slot pool’. The slot pool includes slots created through new capacity and slots that have been returned to the pool. Under the global guidelines, half of the pooled slots must be allocated to requests from new entrants and the other half to non-new entrants.³⁴

Under the EU rules, half the slots in the pool are reserved for new entrants, but there are no requirements as to how the remaining half

³⁰ European Parliament, [SUSPENSION OF EU RULES ON AIRPORT SLOT ALLOCATION](#), September 2020

³¹ European Council press notice, “[COVID-19: EU adopts slot waiver to help airlines](#)”, 30 March 2020; [Statement by Commissioner Adina Valean on the Commission's intention to extend airport the slot waiver](#), European Commission, 14.09.2020

³² Transport Select Committee, [Oral evidence: Coronavirus: implications for transport](#), HC 268, Q667

³³ “[Wizz Air calls for end to waiver on airport slot “use-it-or-lose-it” rules](#)”, *Business Traveller*, 6 August 2020

³⁴ Op cit., [Worldwide Airport Slot Guidelines](#) (1st ed.), section 8.3.3.3

should be allocated.³⁵ According to ACL, the UK coordinator, this means that the EU rules in theory allow for "100% of the slot pool to be allocated to new entrants if the Coordinator decides that is the appropriate allocation".³⁶

The global guidelines and the EU rules currently define a new entrant differently:

- Under the **global guidelines**, a new entrant is an airline requesting "a series of slots at an airport on any day where, if the airline's request were accepted, it would hold fewer than 7 slots at that airport on that day".³⁷
- Under **EU rules** an airline is considered a new entrant at an airport on a particular day if, upon allocation, it would hold fewer than five slots in total on that day or, for an intra-EU route with less than three competitors, hold fewer than five slots for that route on that day.³⁸

There is no requirement in either the global guidelines or the EU rules that coordinators grant the remaining pooled slots based on the share of slots already held by an airline at an airport. ACL gives the following example:

... a carrier holding 50% of the slots at an airport should not assume that they would be allocated 50% of any new capacity released or even 50% of the incumbent pool. Slots will be allocated by applying the primary and secondary criteria which may result in that carrier getting no new slots from the pool.³⁹

Insolvency

Under both the EU rules and the global guidelines, airlines and other aircraft operators must have a valid operating licence to hold slots.⁴⁰ Slots previously held by airlines that no longer have a valid operating licence are returned to the pool. If an airline or aircraft operator enters insolvency, airport coordinators can reserve the airline or operator's slots in case the company's operating licence is reinstated or in the event of a formal takeover.^{41 42}

Some of the biggest sellers of slots have been struggling airlines, according to ACL. From 2008 to 2019 the biggest sellers of slots were Flybe and Monarch. Most of Monarch's slots were sold after it entered into administration.⁴³ EasyJet and Jet.Com have recently purchased

³⁵ ACL, [Dispelling the Myths of Airport Slot Allocation](#), 10 December 2019

³⁶ Ibid.

³⁷ Op cit., [Worldwide Airport Slot Guidelines](#) (1st ed.), page 63

³⁸ Article 2 of [Regulation 95/93](#)

³⁹ Op cit., [Dispelling the Myths of Airport Slot Allocation](#)

⁴⁰ Article 4 of [Regulation 95/93](#); IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 8.3

⁴¹ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 8.3

⁴² The Queen's Speech, on 19 December 2019, included proposals for legislation on airline insolvency. This followed an independent review of airline insolvency commissioned after the collapse of Monarch Airlines in 2017, by Chris Grayling, the then Secretary of State for Transport. After the collapse of Thomas Cook last year the current Transport Secretary, Grant Shapps, confirmed his intention to bring in a better system for dealing with airline insolvency and repatriation.

⁴³ ACL, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

12 Airport slots

Thomas Cook's slots, after it entered into insolvency last year. EasyJet, according to the BBC, purchased 12 of Thomas Cook's summer slot pairs and 8 winter slot pairs at Gatwick as well as 6 summer slots pairs and one winter slot pair at Bristol. EasyJet, according to the Government's liquidation service, spent £36million on acquiring Thomas Cook's slots.⁴⁴

Monarch Airlines in 2017 won a judicial review against ACL, which gave the airline the right to be allocated its historic slots so it could sell these to other airlines, even though it had entered insolvency. ACL, the UK coordinator, has argued:

The current regime could greatly benefit from clarity over the definition of an "air transport undertaking" and whether a carrier in insolvency (with no prospect of re-starting commercial air operations) should be able to hold and sell slots purely to raise finance for its owners and debtors.⁴⁵

Judicial review: Monarch Airlines (MAL) and Airport Coordination Limited (ACL)

Monarch Airlines entered administration on 2 October 2017 and, on the same day, the Civil Aviation Authority (CAA) "provisionally suspended MAL's Air Operator's Certificate and issued notice of proposal to suspend or revoke MAL's Operating License."

Monarch's administrators did not plan to rescue the airline but planned to sell the airline's historic slots at Gatwick and Manchester airports to raise funds to pay creditors. However, in response to the CAA's decision, ACL, on 24 October 2017, reversed its decision on the allocation of the summer slots to Monarch, pending the outcome of the CAA's process. Monarch's administrators lodged a judicial review against ACL's decision.

The High Court ruled in favour of ACL, which would have led to Monarch's slots returning to the slot pool rather than allowing the airline's administrators to sell the slots. However, the ruling was overturned at the Supreme Court on 17 November 2017, which forced ACL to allocate Monarch its historic slots at Gatwick and Manchester. These slots were then sold by Monarch's administrators.

Source: Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

1.6 How is the use of slots monitored and enforced?

Airlines must return slots they know they will not use so available capacity is not wasted. Coordinators can, and do, reallocate returned slots at short notice. The use of slots is monitored to:

⁴⁴ [Thomas Cook airport slots bought by EasyJet and Jet2](#), BBC News, 8 November 2019

⁴⁵ ACL, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019 p21

- ensure available capacity is not wasted;
- prevent slots being misused; and
- if slots have been misused, to determine whether airlines are entitled to retain their summer or winter slots the next time round, under the Use It or Lose It Rule.⁴⁶

Airlines can only hold onto slots they plan to use, transfer, swap, or share with another airline.⁴⁷ Holding onto a slot for any other reason is a misuse of the slot. Airlines and other operators are not allowed to:

- hold onto slots to deny other airlines, or other operators, access;⁴⁸
- request slots they do not intend to use or use for another reason than what they have indicated;⁴⁹ and
- use slots for another route, destination or service type without the coordinator's permission.⁵⁰

Typical cases of slot misuse are:

- **late returns:**⁵¹ If air carriers decide that they do not need an allocated slot anymore they can return it at one of the so-called 'slot return dates' (31 January and 31 August). These dates act as the baseline for the calculation of the 80/20 rule.
- **'no shows':** if airlines fail to use the slots they have been allocated and do not cancel the slot in advance.⁵²
- **Off slot flights:** flights operated significantly and repeatedly off slot times ('off slot'); and
- **'Go shows':** flights operated without having cleared slots.⁵³

The effects of misuse can be significant:

Considering the asymptotic behaviour of delay when the demand-to-capacity ratio increases, it is reasonable to expect severe disruption on airport operations, especially due to 'off slot' and 'go shows' flights at congested airports. In effect, the experienced inefficiencies during initial allocation are further magnified by a severe slot misuse...⁵⁴

⁴⁶ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 9.2

⁴⁷ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 8.5

⁴⁸ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 9.2.2

⁴⁹ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 9.2.2

⁵⁰ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 9.2.2

⁵¹ If air carriers decide that they do not need an allocated slot anymore they can return it at one of the so-called 'slot return dates' (31 January and 31 August). These dates act as the baseline for the calculation of the 80/20 rule

⁵² Airport Coordinated Limited, [CONTROLLING THE MISUSE OF SLOTS AT COORDINATED AIRPORTS IN THE UK: MISUSE OF SLOTS ENFORCEMENT CODE](#), June 2015

⁵³ For more information, see: ACL, [Guidance on Slot Allocation and Monitoring](#), May 2013

⁵⁴ Madas, M and Zografos, K. (2010) [Airport slot allocation: a time for change?](#) *Transport Policy* 17, p282

Some airlines have flown empty flights or ghost flights to retain their slots. For example, BMI, an airline previously owned by British Airways, flew empty planes during the financial crisis.⁵⁵

Misuse of slots can result in enforcement action. For example, airlines can lose their slots for the rest of the season or their grandfather rights in the next season if they misuse their slots.⁵⁶ They can also face financial penalties. ACL, the UK coordinator, can impose fines of up to £20,000.

Sometimes slots are not used for justifiable reasons. For example, severe weather may lead to the closure of an airport or airspace. Industrial action or strikes also prevent airlines from using their slots. In such cases, an airline's inability to use the slot does not count towards the 80/20 rule.⁵⁷

1.7 What is secondary trading?

Once allocated, slots can be swapped, transferred or shared with another airline, as part of a commercial arrangement.⁵⁸ This has led to the creation of a secondary market, especially at some heavily congested airports, where there the availability of pooled slots is limited (see section 1.4 on new entrants). Within the secondary market, airlines buy, sell and lease slots amongst one another.

Secondary trades are not (in theory) financial trades, but rather an exchange of one slot for another. However, in practice, airlines do pay to purchase slots on the secondary market, sometimes for large sums of money (see section 3.3). Slots are also leased between airlines, especially airlines operating within a group.⁵⁹ ⁶⁰ According to ACL:

There is an assumption that secondary trading involves airlines purchasing slots for large sums of money, which incentivises best or most efficient use of the slots as the purchasing carrier looks to use the slots to maximise the investment return. However, many secondary trades involve the leasing or exchange of slots for no, or minimal, consideration.⁶¹

When airlines have been allocated a new slot they must use them for two equivalent seasons before they can be transferred to another airline, so that airlines are prevented from taking advantage of their new entrant status.⁶²

Only a limited amount of information needs to be reported when an exchange of slots take place. These include the names of the airlines

⁵⁵ Adam Smith Institute, [READY FOR TAKEOFF: Building competition in the aviation industry](#). Briefing Paper. June 2019.

⁵⁶ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 9.4.4

⁵⁷ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 8.8

⁵⁸ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 8.11

⁵⁹ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019 p.18

⁶⁰ British Airways is one of five airlines in the International Airlines Group (IAG). Air France and KLM are also part of the same parent company. Lufthansa, a German airline, also owns a series of subsidiary airlines.

⁶¹ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019 p.21

⁶² IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 8.12

involved, the slots swapped or transferred and the period the exchange covers.⁶³ Airlines are not required to advertise slots for sale or to disclose the price paid for a swap or transfer (see section 3.3).⁶⁴

⁶³ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 8.11

⁶⁴ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019 p.20

2. Legal framework governing slot allocation in the UK

2.1 EU Airport Slot Regulation

Since the early 1990s, slot allocation in the UK has been governed by the EU Airport Slot Regulation ([Regulation 95/93\(EEC\)](#)) ('the EU rules'). The EU rules came into force in 1993 and were later transposed into UK law by the *Airports Slot Allocation Regulations 2006* ([SI 2006/2665](#)).

The EU rules retain the principles of the Worldwide Airport Slot Guidelines (WASG). There are some minor differences between the EU rules and the global guidelines, but most of the key principles remain the same. These are summarised in [Section 1](#), above. However, as noted above, the EU regulations are legally binding, whereas the global guidelines are not.

The UK left the European Union on 31 January 2020 and is currently in a Transition Period until 31 December 2020, during which time EU law continues to apply. As the EU rules have been transposed into UK law, those rules will still apply after 31 December until such a time as the UK Government decides to replace them with new national rules (see [section 5](#), below).⁶⁵

For more information on the UK-EU future relationship negotiations, due to conclude in 2020, see Commons Library briefing paper [The UK-EU future relationship negotiations: Transport](#), CBP 8832, May 2020

2.2 Worldwide Airport Slot Guidelines (WASG)

The World Airport Slot Guidelines (WASG) ('the global guidelines') were created to provide a "consistent, transparent and fair method" for allocating and managing airport capacity at congested airports around the world. The guidelines (formerly the Worldwide Slot Guidelines, or WSG) have been in place since 1974, but have been adapted over this time to respond to changes in the industry.⁶⁶ The guidelines have recently been renamed the Worldwide Airport Slot Guidelines to reflect inclusion of airports in their development. The guidelines are now jointly published by IATA⁶⁷, Airports Council International (ACI) and the Worldwide Airport Coordinators Group (WWACG).

The primary objective of airport coordination, according to the WASG, is to achieve the "most efficient use of airport infrastructure in order to maximize benefits to the greatest number of airport users".⁶⁸ The global guidelines also aim to:

⁶⁵ The *Airports Slot Allocation (Amendment) (EU Exit) Regulations 2019* ([SI 2019/276](#)) used powers under the *European Union (Withdrawal) Act 2018* to make the necessary changes to the 2006 Regulations, Regulation 95/93 and [Annex 13 to the EEA Agreement](#) to ensure that retained EU law functions correctly in this area now that the UK has left the EU

⁶⁶ IATA response to DfT consultation

⁶⁷ IATA is the trade association for airlines around the world. Founded in [1945](#), the association represents 290 airlines in 120 countries. IATA's [Board of Governors](#) include senior leaders from across the global airline industry.

⁶⁸ IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 1.2

- facilitate consumer choice of air services, improve global connectivity and enhance competition at congested airports for passengers and cargo.
- provide consumers with convenient schedules that meet demand, are consistent from one season to the next, and reliable in terms of their operability.
- ensure that slots are allocated at congested airports in an open, fair, transparent and non-discriminatory manner by a slot coordinator acting independently.
- realize the full capacity potential of the airport infrastructure and to promote regular reviews of such capacity and demand that enable effectual capacity declarations for slot allocation on a seasonal basis.
- balance airport access opportunities for existing and new airlines.
- provide flexibility for the industry to respond to regulatory and changing market conditions, as well as changing consumer demand.
- minimize congestion and delays.⁶⁹

The global guidelines are used by airport coordinators (at Level 3/coordinated airports) and facilitators (at Level 2 airports) at 345 airports around the world, including the 204 most congested airports. The guidelines are reviewed at least four times a year, with the view of determining whether any updates or revisions are necessary.⁷⁰

The governance of the global guidelines has recently changed. Under the new structure, a Slot Board, made of up equal members from airlines, airports and airport coordinators, as well as their representative bodies (International Air Transport Association, the Airports Council International and the Worldwide Airport Coordinators Group respectively), is responsible for deciding any changes.⁷¹ The guidelines cannot be changed unilaterally. Governments, as well as other interested parties, can propose amendments, but the final decision over any change rests with the Slot Board.

The global nature of aviation, according to the WASG, means there is a need for a harmonised standards to govern the allocation of slots "at both the origin and destination airports of each route in order to maximize an airline's efficient use of resources".⁷² Without a harmonised approach to slot allocation, IATA argue, the:

... inevitable result would be governments and airports around the world using a confusing patchwork of (often conflicting) systems for allocating and managing slots that would cripple airlines' efforts to provide their customers with the services they want, to the places they want to fly, when they want to fly and at

⁶⁹ IATA, [Worldwide Airport Slots: factsheet](#), December 2019

⁷⁰ https://www.icao.int/Meetings/a39/Documents/WP/wp_340_en.pdf

⁷¹ IATA, [Worldwide Airport Slots: factsheet](#), December 2019

⁷² International Air Transport Association, [Worldwide Slot Guidelines:10th edition](#), August 2019

a price they want to pay. The economic and social value created by global connectivity would be negatively impacted.⁷³

The WASG state "where a State or government intends to develop and implement their own rules or procedures, the principles of these guidelines should be adopted. IATA encourages the use of these guidelines as the basis of such regulations".⁷⁴ The EU rules, for example, retain the principles of the WASG.

There is some deviation in national schemes. For example, in **China** there are different pools for domestic and international flights. Negotiations on a US-China air service agreement⁷⁵ reportedly failed because the US believed its airlines would not be able to secure slots for new services in China.⁷⁶

In countries that follow the global guidelines, rather than domestic regulations, coordinators can have more flexibility because the guidance is not legally binding. Even when governments have intended to align their own regulations with the global guidelines, the time it takes to amend domestic laws and regulations can result in divergences. For example, the most recent edition of the global guidelines includes new criteria for determining when an airline is classified as a new entrant at an airport. However, these changes are not reflected in the EU rules (see section 1.5).⁷⁷

The International Civil Aviation Organisation (ICAO) has endorsed the global industry-led guidelines.

About ICAO

ICAO was set up as a result of the [Chicago Convention on Civil Aviation](#) in 1944. The agreement signed at this convention has formed the basis for international air travel ever since.

There are [193 contracting states](#) to the Convention (including the UK). ICAO's role is to work with those states and the industry to "reach consensus on international civil aviation Standards and Recommended Practices (SARPs) and policies in support of a safe, efficient, secure, economically sustainable and environmentally responsible civil aviation sector." These SARPs and policies are used by ICAO Member States to ensure that their local civil aviation operations and regulations conform to global norms.

The ICAO Assembly is the sovereign body. It meets at least once every three years and is convened by ICAO's governing body, the Council. The Assembly establishes the worldwide policy of ICAO for the upcoming three years. Each Member State is entitled to one vote on matters before the Assembly, and decisions are taken by majority vote.

The most recent Assembly took place in [October 2019](#).

⁷³ IATA, [Worldwide Airport Slots: factsheet](#), December 2019

⁷⁴ International Air Transport Association, [Worldwide Slot Guidelines: 10th edition](#), August 2019

⁷⁵ Air service agreements (ASA) are bilateral agreements which allow international commercial air travel between countries.

⁷⁶ Centre for Aviation, [US-China open skies: a window in 2019 - alignment of airline partnerships and airport infrastructure](#), April 2017

⁷⁷ Under the most recent edition of the global guidelines an airline is a new entrant when it would hold fewer than 7 slots at that airport on that day once the new slots are allocated. Under the EU a new entrant is an airline with fewer than 5 slots at the airport on that day. See IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, page 94 and Article 2 of [Regulation 95/93](#).

ICAO's guidance on slot allocation states:

... any slot allocation system should be fair, non-discriminatory and transparent, and should take into account the interests of all stakeholders. It should also be globally compatible, aimed at maximising effective use of airport capacity, simple, practicable and economically sustainable.⁷⁸

2.3 Roles and responsibilities in the UK

Airport Coordination Limited (ACL)

[Airport Coordination Limited \(ACL\)](#) is the UK slot coordinator: it facilitates and coordinates slots at [46 Level 2 and Level 3 airports worldwide](#), 24 of which are in the UK. ACL is funded by UK airlines and airports, but is legally required to act in a neutral, transparent and non-discriminatory way.⁷⁹ ACL has quorum of independent directors on its Board. Airlines, other aircraft operators and airports can ask ACL to justify its decisions. ACL's decisions are also subject to judicial review⁸⁰ and reviews by the coordination committees, appointed at each airport (see section 1.3, above).

The Civil Aviation Authority (CAA) and Department for Transport (DfT) maintain an arms-length relationship with ACL. They have no direct involvement in the slot allocation process. For example, the Government is legally prevented from intervening in the slot allocation process.

ACL, as the UK coordinator, is also responsible for enforcing the EU rules in the UK. The EU rules require every Member State to introduce "effective, proportionate and dissuasive sanctions" for "repeated and intentional" air operations that are "significantly different" from the slot allocated for that movement and that cause "prejudice to airport or air traffic operations".⁸¹

Under the UK's *Airport Slot Allocation Regulations 2006* ([SI 2006/2665](#)), ACL have powers to deal with misuse of slots at coordinated airports. The Regulations are supplemented by the [Misuse of Slots Enforcement Code](#), which sets out the processes that the coordinator must follow when exercising these powers.

ACL can enforce the use of slots by removing an airline's slots for the rest of the season or even their grandfather rights in the next season.⁸² ACL can also impose fines of up to £20,000.⁸³

⁷⁸ International Civil Aviation Organization (ICAO), [Policy and Guidance Material on the Economic Regulation of International Air Transport \(Third edition\)](#), Doc 9587, 2008

⁷⁹ Article 4 of [Regulation 95/93](#)

⁸⁰ Judicial reviews are a type of court case where claimants challenge the lawfulness of a government decision. This can be the decision of a central government department, another government body such as a regulator, a local authority, or certain other bodies when they are performing a public function.

⁸¹ Article 14 of [Regulation 95/93](#)

⁸² IATA, [Worldwide Airport Slot Guidelines](#) (1st ed.), June 2020, section 9.4.4

⁸³ Airport Coordinated Limited, [CONTROLLING THE MISUSE OF SLOTS AT COORDINATED AIRPORTS IN THE UK: MISUSE OF SLOTS ENFORCEMENT CODE](#), June 2015

Competition and Markets Authority (CMA)

The main body with the power to investigate the allocation of slots is the Competition and Markets Authority (CMA). In certain specific circumstances, following an investigation, the CMA has the power to address a competition issue, potentially by ordering the sale of slots.

The CMA can require the sale of slots, for example, if one airline obtains slots from another as a result of a merger, and the CMA finds a “substantial lessening of competition”. This happened [in 2012 when IAG bought BMI](#) and [in 2015 when IAG bought Aer Lingus](#). The transfer of slots between airlines as a standalone transaction might also give rise to a relevant merger situation. But this would be subject to detailed legal assessment and it would not be certain to be subject to merger control.

The CMA can also initiate [market studies and market investigations](#) to examine whether a market is working well. A market investigation reference typically follows a market study. If the CMA finds an “adverse effect on competition” following a detailed investigation, it has wide-ranging powers to remedy, prevent or mitigate that adverse effect on competition or associated detriment itself, or through recommendations to other bodies, which could lead to a transfer of slots. The CMA’s powers under the [Competition Act 1998](#) extend to giving directions or accepting commitments from parties it considers appropriate to addressing breaches of competition law. Subject to the specific circumstances of a case this could result in the divestment of slots by an airline.

The CMA also has the power to accept binding commitments from parties under investigation to address any competition concerns it has. This power could be used to accept commitments by an airline to divest slots.

[Anyone can raise concerns with the CMA](#) about anti-competitive behaviour by a company or group of companies or ask the CMA to look at the functioning of a market and whether it is working well and not creating negative effects for consumers, businesses and the economy. The Secretary of State for Business, Energy and Industrial Strategy has the [power to intervene](#) in markets that raise public interest issues and make a market investigation reference. The Secretary of State also has a [reserve power](#) to make ordinary and cross-market references under the *Enterprise Act 2002*.

Civil Aviation Authority (CAA)

The CAA has concurrent competition powers with the CMA on some aviation matters, but this does not include airport slots.

In 2019, in response to the Government’s consultation on a new aviation strategy, the CAA addressed the issue of whether it should have an enhanced role in any future changes to slot allocation in the UK:

Regarding the government’s proposal on the possibility of giving the CAA a more formal slot allocation role, while we are not specifically seeking such a role, we are happy to discuss with

government, whether there is a helpful role in slot allocation consistent with our statutory duties and role that we can fulfil.⁸⁴

⁸⁴ CAA, [CAA Response to 2019 Government Consultation - Aviation 2050: the future of UK aviation](#), CAP 1813, July 2019, p14

3. Current allocation of airport slots in the UK

3.1 Congested airports in the UK

The UK has 18 airports classified as ‘congested’, eight of which are Level 3 or coordinated airports, while the remaining ten are Level 2 airports (see section 1.1).⁸⁵ Heathrow, Gatwick, London City, Stansted, Luton, Manchester and Birmingham are all coordinated airports. Bristol is also coordinated from 23:00 to 07:00 in summer seasons.

Airport	Airport Code	Level
Aberdeen	ABZ	2
Belfast City	BHD	2
Belfast International	BFS	2
Birmingham	BHX	3
Bristol Only from 23:00 to 07:00 in summer seasons	BRS	3
East Midlands	EMA	2
Edinburgh	EDI	2
Glasgow	GLA	2
Leeds Bradford	LBA	2
Liverpool	LPL	2
London-City	LCY	3
London-Gatwick	LGW	3
London-Heathrow	LHR	3
London-Luton	LTN	3
Manchester	MAN	3
Newcastle	NCL	2
Southampton	SOU	2
Stansted	STN	3

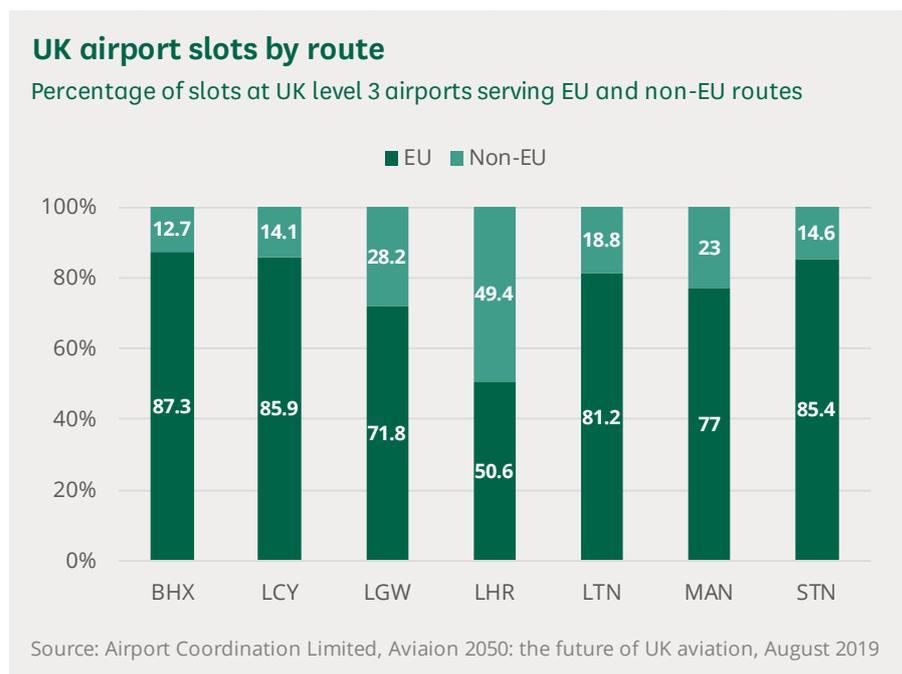
Each airport serves different markets with different passenger needs and has a different mix of traffic. Capacity constraints also vary between UK airports. For example, London Heathrow's capacity is constrained by an Air Transport Movement cap of 480,000 flights per year, even though Heathrow has runway and terminal capacity to support more flights. Gatwick, in contrast, has limited available capacity on the runway,

⁸⁵ International Air Transport Association (IATA), IATA Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019

whereas Stansted does not have space in the terminals to "process passengers at peak times".⁸⁶

3.2 Slots at UK airports

Two-thirds of the routes departing from the UK in 2018 (1,385 routes out of a total of 2,590) had a slot allocated.⁸⁷ The vast majority of slots at UK Level 3 airports, other than Heathrow, are used for flights to EU countries. At Heathrow the split between EU and non-EU countries is almost 50/50.⁸⁸ London is the best-connected city in the world, according to IATA's Air Connectivity Index.⁸⁹



A diverse mix of UK and foreign carriers hold slots at the UK's busiest airports. In 2018, 185 airlines, including 170 non-UK based airlines, operated at the UK's Level 3 airports.⁹⁰

Airlines have used a mixture of slots allocated through the slot pool as well as slots traded in secondary markets to establish and, sometimes grow, their presence at UK airports. According to ACL, at London Heathrow frequently airlines "gain initial entry through pool allocation and then grow through secondary trading".⁹¹ For example:

Delta initially had access to London Heathrow through operation of Air France and KLM slots which it operated through joint ventures (but where the historic rights were retained by Air France

⁸⁶ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

⁸⁷ International Air Transport Association (IATA), IATA Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019

⁸⁸ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

⁸⁹ International Air Transport Association (IATA), IATA Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019

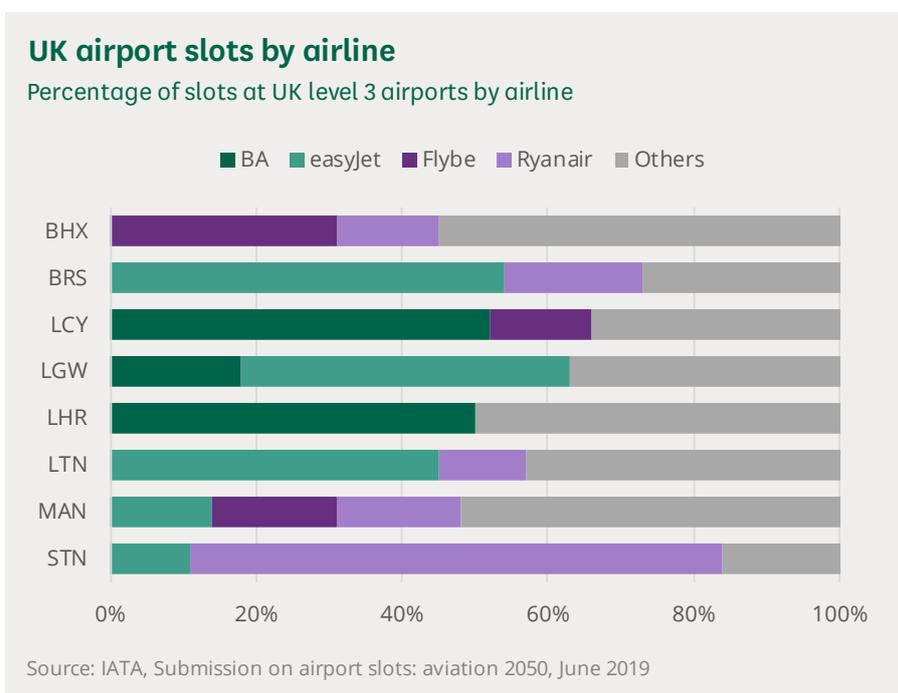
⁹⁰ International Air Transport Association (IATA), IATA Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019

⁹¹ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

and KLM under Article 10(8) of the EU Slot Regulations). Delta gained historic rights first by leasing and finally in S14 (summer 2014) by purchasing the slots from AF/KLM.⁹²

Dominance of airlines at UK airports

At some airports, a small number of carriers have acquired more and more slots over time and have established a position as the largest single carrier. The chart below shows the share of slots held by different airlines at the UK's busiest airports in 2019, i.e. before Flybe went into administration. British Airways held around half the slots at London Heathrow (50%) and London City Airport (52%). EasyJet held 45% of the slots at both London Gatwick and Luton and over half the slots at Bristol (54%). Ryanair held 73% of the slots at London Stansted.⁹³

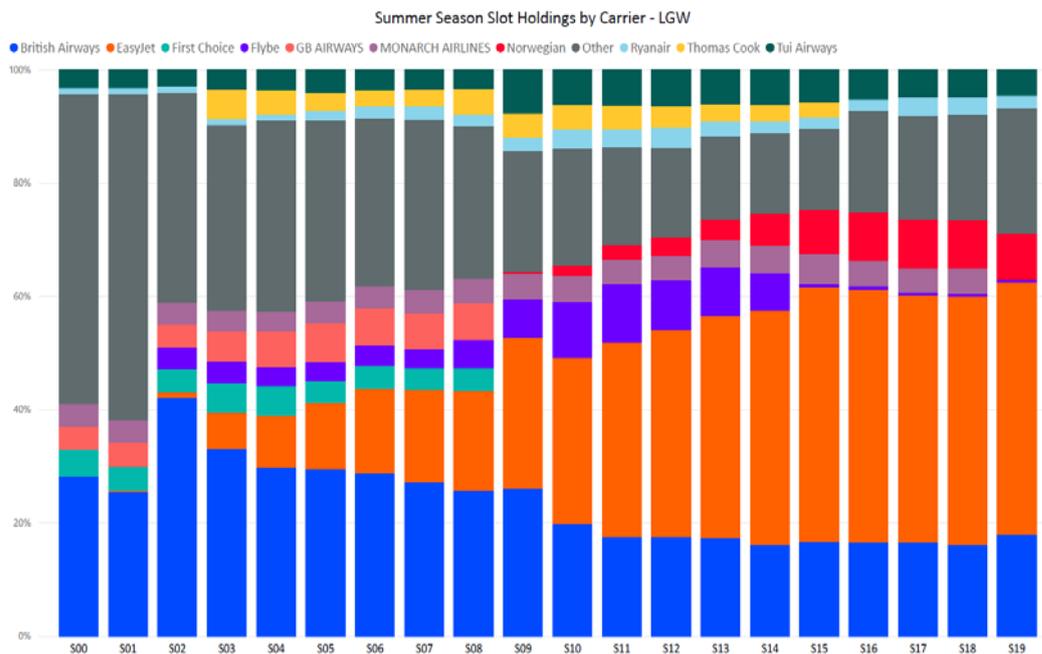


British Airways has been able to use its grandfather rights, as well as trading and leasing on the secondary market, to grow and maintain its dominant position at Heathrow. In contrast, the slot allocation rules alongside secondary trading have enabled new entrants, such as easyJet, to not only gain access to UK airports, but to grow to become the dominant airline.⁹⁴ For example, the chart below shows how easyJet increased its summer slots at Gatwick between 2008 and 2019.⁹⁵

⁹² Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

⁹³ International Air Transport Association (IATA), IATA Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019

⁹⁴ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019



Source: Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

The Government in 2018 noted that when an airline holds a significant market share it is able to exploit its market power in ways that can have negative consequences on competition and ultimately on consumers. The Government said:

As it stands, the government does not have evidence that warrants government intervention beyond slot reform, although it believes there is a case for more frequent monitoring to ensure airline competition continues to work for the benefit of the consumer.⁹⁶

Availability of slots at UK airports

The availability of pooled slots varies between different airports. The availability of pooled slots is important because of the rules governing how these slots are allocated: most importantly that 50% of the new slots are protected for new entrants. If not enough slots return to the pool it can be hard for new airlines to gain entry to an airport. While secondary trading (in theory) should lead to an efficient allocation of available capacity, this has not always happened in practice (see section 3.3).

Since 2008, the number of slots traded at Heathrow has far exceeded the number of slots available and allocated through the slot pool. For example, a total of 4,710 weekly summer slots at London Heathrow were traded between 2008 and 2019, compared to just 356 slots allocated through the slot pool.⁹⁷ The picture is different at Gatwick.

⁹⁶ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

⁹⁷ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

Over the same period, more slots have been allocated through the slot pool at Gatwick than traded through the secondary market. There have generally been enough slots available in the pool at Gatwick to meet demand over recent years, although the availability has varied year-to-year.⁹⁸

3.3 Secondary trading

Slot trading is more prevalent in the UK than in many other countries. The extent and nature of secondary trading varies between UK airports. More slots tend to be traded where the availability of pooled slots is limited, but where demand to use the airport remains high. Detailed data on secondary trading is available for both Heathrow and Gatwick, both of which have an active secondary market for slots. The volume of trading is much greater at Heathrow. The table below highlights some of the differences in slot trading at Heathrow and Gatwick.

A list of [completed UK slot trades](#) is available on the [ACL website](#) – this is updated as new trades occur.

	London Heathrow Airport	London Gatwick Airport
Availability of pooled slots	Limited number of new slots available through the slot pool.	Enough slots are usually available through the slot pool to meet demand.
Type of slot trading	More slots are leased than sold. Slots are often leased back to the airlines which sold them.	More slots are sold than leased on the secondary market.
Buyers of slots	Over the last decade, the airlines which have bought more slots at Heathrow have tended to be: <ul style="list-style-type: none"> • incumbents • wealthier airlines (3 out of the 4 airlines which bought the most slots at Heathrow were in the top 10 airlines by revenue) • foreign carriers, although British Airways has grown its slot holdings at Heathrow on the secondary market. 	UK carriers have bought the majority of slots sold at Gatwick.

Slots can be bought in perpetuity, but also for designated periods of time. Slots at UK airports have been sold for millions of pounds. Oman Air set a record by paying US\$75 million for a pair of take-off and landing slots at Heathrow in early 2016. Scandinavian Airlines sold two slot pairs at Heathrow to American Airlines for US\$75 million in March 2017. The value of slots varies considerably depending on the time of

⁹⁸ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

day. At Heathrow an early morning slot pair is reported to be worth around £15 million, falling to £10 million at midday and £5 million in the evening. The point in the economic cycle also affects the value of a slot. Slots are often bought by airlines with the most revenue or those who are most willing to pay.⁹⁹

Slots are also leased between airlines. A relatively small number of carriers frequently lease slots to other airlines.¹⁰⁰ Leasing does not necessarily lead to a financial exchange. Leasing slots is more prevalent among related airlines, for example airlines within a group such as International Airlines Group (IAG) or Lufthansa.¹⁰¹ At Gatwick, British Airways has leased out more slots than any other carrier.

New entrants have used a mix of pooled slots and secondary trading to gain entry and grow their presence at UK airports, sometimes to the point where they have become the dominant airline. According to ACL, the "current allocation rules have allowed a mix of airlines (UK and non-UK) to gain a foothold at London Gatwick and have allowed Norwegian to build a significant slot position since it first entered in 2009."¹⁰² Since 2008, 10 airlines, following their initial allocation, have used the secondary market to move from being a new entrant to an incumbent at Heathrow.

⁹⁹ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁰⁰ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁰¹ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁰² Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

4. Main criticisms of slot allocation

The focus of this section is on the criticisms of the slot allocation rules as they apply in the UK, the EU and the rest of the world. However, it is important to mention that advocates of the current slot allocation system, while acknowledging that there are limitations with the process, argue the global rules are broadly understood and respected within the industry and provide certainty for airlines, which in turn allows them to invest, grow and innovate.¹⁰³ There is also scepticism about whether alternative methods, such as the use of market-based mechanisms (see section 5.2), would lead, both in theory, and more importantly in practice, to a more effective allocation of scarce airport capacity.¹⁰⁴

Another argument in the debate around slot reform is whether problems at some very congested airports are due to a lack of airport infrastructure, rather than the inadequacy of the slot allocation rules. IATA's perspective is that slot allocation reform is not a substitute for a lack of airport capacity.¹⁰⁵ IATA has argued perceived problems with the global guidelines are disproportionately focused on a small number of super-congested airports, such as London Heathrow, Amsterdam Schiphol and Hong Kong International.¹⁰⁶ Data on the allocation of slots and secondary trading at Heathrow and Gatwick (see section 3, above) lends some support to this view. Heathrow, as a super-congested airport, only has a very limited churn of slots through the slot pool each year, whereas the availability of pooled slots at Gatwick has generally been enough to meet demand.¹⁰⁷

Building new airport capacity, however, is politically difficult and time consuming. The Airports Commission was set-up because successive governments have found airport capacity a hard issue to solve.¹⁰⁸ There are difficult trade-offs between the economic benefits of airport expansion and the consequences new capacity has for the environment and local communities. The Court of Appeal on 27 February 2020 ruled the Government's decision to give the go-ahead for a third runway at Heathrow, namely the Airports National Policy Statement, was illegal

¹⁰³ International Air Transport Association (IATA), IATA Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019; Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁰⁴ International Air Transport Association (IATA), IATA Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019; Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁰⁵ IATA, [Worldwide Airport Slots: factsheet](#), December 2019

¹⁰⁶ IATA, [Worldwide Airport Slots: factsheet](#), December 2019

¹⁰⁷ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁰⁸ Department for Transport, [Airports: The Government's View. Moving Britain Ahead](#), October 2016

because it was not consistent with the Government's climate change commitments.¹⁰⁹

The remainder of this section summarises the main criticisms the Department for Transport (DfT), the Competition and Markets Authority (CMA) and others have made about the slot allocation process. *Aviation 2050*, the Department for Transport's draft aviation strategy, published in 2018, stated:

The current allocation system is not designed to stimulate a competitive market environment and has no means of taking into account broader objectives. Aspects of the allocation process have the potential to adversely impact consumer outcomes and growth at slot-constrained UK airports where new capacity is due to be released. This is particularly important in the context of expansion at Heathrow, but also potentially where significant new capacity is introduced at other congested airports.¹¹⁰

Inefficient allocation of resources

The primary purpose of slot allocation is to maximise the use of scarce capacity at congested airports. One of the main criticisms of the current slot allocation system is that it does not allocate capacity in the most efficient way.¹¹¹ There are various ways in which the current rules can result in a misallocation, under-use and waste of airport capacity.

Airlines do not pay for their slots initially. Economists argue this does not lead to the most efficient allocation of resources because airlines who would value peak time slots, and would be prepared to pay for them, are not able to do so, at least through the initial slot allocation process.¹¹² An academic paper written in 2013 explained that:

Because [the slot allocation process] makes no explicit consideration of the value that airlines attach to a slot, services may not be allocated to those with the greatest willingness to pay and therefore slots may be operated inefficiently by airlines who do not make the most efficient use of the available capacity.¹¹³

An impact assessment of the EU rules on slot allocation in 2011 found that "even at some airports at which demand for slots significantly exceeds supply, over 10% of slots allocated are not utilised."¹¹⁴

Underuse of slots also occurs through the use of a high proportion of smaller aircraft, thereby limiting the number of passengers that can be transported within the constrained capacity. As Steer Davies Gleave, a global business consultancy, told the EC in 2011:

¹⁰⁹ [Heathrow third runway ruled illegal over climate change](#), The Guardian, 27 February 2020

¹¹⁰ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹¹¹ Op cit., [Slot allocation and use at hub airports. perspectives for secondary trading](#), p152

¹¹² Pertuiset, T, and Santos, G. (2014), "[Primary auction of slots at European airports](#)", *Research in Transportation Economics* 45, p67

¹¹³ Op cit., [Airport slot allocation: performance of the current system and options for reform](#), p2

¹¹⁴ Op cit., [Impact assessment of revisions to Regulation 95/93](#), p5

The numbers of passengers that could be transported within the constrained airport capacity could be increased, and fares reduced, if larger aircraft were used, but there is little incentive for the incumbent airlines to give up slots to carriers who could use them more effectively.¹¹⁵

The question of whether the slot rules lead to the most efficient allocation of capacity applies to both new and existing capacity. When the DfT consulted on its draft aviation strategy it argued:

In a situation where significant new capacity is released at a highly constrained airport, such as the once in a generation opportunity presented by Heathrow expansion, it is the government's view that current regulations may not promote fair and competitive growth and are unlikely to produce the best outcome for the consumer.¹¹⁶

Perverse incentives

There are various ways in which the current slot allocation rules can create perverse incentives. This is a problem the Government pointed to in its consultation on the draft aviation strategy. According to the Government:

there are incentives for airlines to obtain and retain as many slots as possible by slot hoarding, and by gaming the allocation system to gain revenue through the secondary market, prevent competition or by obtaining slots from subsidiary airlines.¹¹⁷

On the secondary market specifically, the DfT argued "airlines can also sell slots which are initially allocated for free, on the secondary market, potentially obtaining slots under the new entrant rule with the sole purpose of later transferring these to an incumbent or affiliate airline."¹¹⁸

The Use it or Lose it Rule, or 80/20 rule, also gives rise to unhelpful behaviours. Some airlines in the past have flown ghost flights to avoid losing their slots. BMI, which was owned by British Airways, flew empty planes during the financial crisis in 2008 to avoid losing landing slots, reportedly worth £770 million.¹¹⁹

The following sub-sections in this chapter outline some of the problematic incentives that result from some of the specific slot allocation rules.

Historic precedence (grandfather rights)

Historic precedence, or 'grandfather rights', is blamed for preventing the optimal use of the scarce capacity available at busy airports by effectively leaving capacity unused. This is because there is little incentive for incumbents to release slots even if they cannot use them efficiently ('slot hoarding' or 'babysitting', essentially operating low load

¹¹⁵ Ibid., p2

¹¹⁶ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹¹⁷ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹¹⁸ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹¹⁹ Adam Smith Institute, [READY FOR TAKEOFF: Building competition in the aviation industry](#). Briefing Paper. June 2019.

factors and/or small aircraft at a highly congested airport) for fear of rivals' entry.¹²⁰ The DfT has argued "granting perpetual grandfather rights to incumbent airlines restricts long-term churn in the market by acting as a barrier to entry."¹²¹

Grandfather rights, according to the Competition and Markets Authority (CMA), strengthen the market power of legacy carriers at congested airports because they have the right to retain slots in perpetuity if they comply with the Use It or Lose It (80/20) Rule (see below).¹²² The CMA has argued that:

... to the extent that airlines have market power, under the current slot allocation arrangements, these airlines may have a unilateral incentive to retain slots even if these are not being fully utilised, to prevent entry and expansion by competitors. The argument here is not just that the incumbent may lack the incentive to use a slot efficiently, but that it might have an active interest in not giving up a slot to a competitor for strategic reasons, to maintain its market power.¹²³

The DfT's draft aviation strategy said slot reform was necessary in part to address the problems posed by having a single dominant airline operating at a congested airport. Airlines with a significant market share at an airport, according to the DfT, may seek to exercise their dominant position to influence the airport's decision-making in ways which may undermine competition. This could include using a dominant position to increase fares or block competitors from entering.¹²⁴

The growth in the value of an airport's slots represents a windfall for the incumbent airlines who hold them. Incumbent airlines retain these slots for free, but see the value of their slot holdings increase as congestion increases.¹²⁵ In these circumstances, 'legacy carriers' earn what are referred to as economic rents because the slots, which they keep for free, would have (theoretically) been priced higher if available on the open market.¹²⁶

The DfT also argued that airlines with legacy slots "hold priority rights in retiming their existing slot holdings, before the remaining pool is allocated" which give them "a competitive advantage" because they

¹²⁰ Op cit., [An incentive pricing mechanism for efficient airport slot allocation in Europe](#), p27; and Kociubinski, J. (2014), "[Regulatory Challenges of Airport Slot Allocation in the European Union](#)", *Wroclaw Review of Law, Administration and Economics*, p35

¹²¹ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹²² Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹²³ CMA, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹²⁴ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹²⁵ Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹²⁶ Adam Smith Institute, [READY FOR TAKEOFF: Building competition in the aviation industry](#). Briefing Paper. June 2019.

have “first access to the most lucrative slots upon their release, preventing those slots being available to new entrants.”¹²⁷

Those in favour of the current system argue that grandfather rights and the Use It or Lose It Rule create the advantage of schedule continuity in successive schedule seasons which can enable long-term strategic planning and operational stability.¹²⁸ It is thus argued that sacrificing efficiency in the short run is justified to reduce the cost of managing uncertainty in the long run.¹²⁹

Flag carriers, legacy carriers and national or ‘home’ airlines

The term ‘flag carrier’ airline refers largely to something which does not exist across much of the aviation industry anymore – including the UK, though the term persists in use and British Airways (BA) is often referred to as the UK national flag carrier. There is no legislation or regulation of this term.

The notion of ‘flag carriers’, also called ‘national’ or ‘home’ airlines first emerged about 75 years ago at the *Chicago Convention on Civil Aviation* in 1944. The agreement signed at this convention has formed the basis for international air travel ever since. It was at Chicago that the idea of a flag carrier airline was discussed, meaning then generally an airline that was substantially owned and effectively controlled by citizens and nationals of one country.

Generally, there was only one such airline, but some countries had more. The idea was essentially that these ‘flying embassies’ would carry the national flag abroad. They were usually owned and funded by the state and held monopolies, or near-monopolies, on key routes and slots at major airports.

As can be seen from this description, the term no longer means very much in many countries – the UK and others deregulated and privatised their aviation industries over the past 30 years and as a result the notion of a flag carrier has become rather more ambiguous. In the UK, for example, BA is considered the ‘legacy (flag) carrier’. As such it benefits from the legacy of being a former state-owned airline in that it has grandfather rights to slots and routes, particularly at Heathrow where it is dominant.

Given the comprehensive global aviation framework and in the EU rules about state aid, there are quite strict limitations these days on what states can do to give their ‘flag carriers’ new advantages over any other airline.

Use it or Lose it (80/20) Rule

The Use it or Lose it Rule to some extent mitigates the ability of incumbent airlines to waste scarce capacity.¹³⁰ IATA believe the rule not only promotes the use of scarce capacity at congested airports, but provides both flexibility and certainty to the airline industry.¹³¹

Where countries have reformed, or looked to reform, this rule they have tended to increase the threshold, for example from 80 to 85 per cent.¹³² One criticism of the rule, however, is that it does not necessarily

¹²⁷ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹²⁸ Op cit., [Slot allocation and use at hub airports. perspectives for secondary trading](#), p152

¹²⁹ Ranieri, A et. Al (2013), [Airport slot allocation: performance of the current system and options for reform](#), Conference Paper, p4

¹³⁰ Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹³¹ IATA, [Worldwide Airport Slots: factsheet](#), December 2019

¹³² For example, in Mexico, see: “[Mexico: New rules for airport slots released](#)”, *Competition Policy International*, 2 October 2017

result in the most efficient use of capacity. The rule constrains the ability of airlines to under-use the available capacity, but it does not allocate this resource to airlines who could use it better.¹³³ As already noted, airlines can resort to flying empty flights in order to stay within the rules. The DfT has also argued that “in practice rights can be retained even where the 80% usage requirement has not been met “because airlines can hand back up to 20% of slots without losing ongoing rights to that 20%.”¹³⁴

New entrants

Despite significant competition in the European air transport market, including from low cost airlines such as easyJet and Ryanair, as set out above, there is an oft-heard criticism that grandfather rights entrench incumbency and do not facilitate entry into the market of new players.¹³⁵

New entrants need a slot to gain entry to a congested airport. A slot is therefore a key barrier to entry.¹³⁶ New airlines can get a foothold at an airport by requesting one of the slots protected for new entrants in the slot pool and/or by purchasing or leasing a slot in the secondary market. The turnover of slots, however, is low at many congested airports¹³⁷ and the result is that pooled slots are often only available for less commercially attractive flight times which, in turn, has a negative impact on the overall competitiveness of the market.¹³⁸

Under the EU rules and the global guidelines, once all the grandfathered slots are accounted for, 50% of the remaining available slots are reserved for new entrants (see section 1.4, above). A new entrant is defined by how many slots the airline holds at an airport on a certain day. Under these rules, airlines quickly fall outside the definition of a ‘new entrant’. This constrains the ability of would-be competitors to gain enough slots to challenge the dominant position of legacy carriers at the more congested airports, with a possible detrimental impact on competition.¹³⁹

The DfT has argued “the new entrant rule can make it challenging for both new entrants or small incumbents to acquire sufficient slots at initial allocation to operate at scale.”¹⁴⁰ To compete effectively against an incumbent, airlines often need to build a portfolio of slots. The CMA has noted that airlines find it difficult to “build up sufficient slot

¹³³ Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹³⁴ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹³⁵ Castelli et. al (2010), [Airport slot allocation in Europe: economic efficiency and fairness](#), University of Venice, Working Paper n.197/2010, p2

¹³⁶ Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹³⁷ Op cit., [Impact assessment of revisions to Regulation 95/93](#), p123 ; only Gatwick has seen significant changes in slot holdings in the last few years, other than changes caused by the takeover of one airline by another.

¹³⁸ Op cit., [Airports in the EU – Challenges Ahead](#), p15

¹³⁹ Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹⁴⁰ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

holdings" under the current rules.¹⁴¹ This results in an unintended consequence of the new entrant rule. As the DfT explained:

... while the intention of the rule is to encourage competition, it has the unintended consequence of acting as a barrier to smaller incumbent airlines expanding because they are unable to build sufficient scale to operate competitively against airlines with larger slot holdings.¹⁴²

The CMA has argued the rule may increase the number of very small operators, even though consumers might be better served by a "smaller number of slightly larger operators."¹⁴³ Much of the literature identifies 'mid-sized incumbents' to be a stronger competitive threat to the dominant carrier than smaller 'new entrants'. Steer Davies Gleave concluded that:

...by encouraging allocation of small numbers of slots to a large number of carriers, the new entrant rule has resulted in fragmentation of the schedule and has not been successful at promoting competition. Many slots allocated to new entrants are returned to the pool after just one season.¹⁴⁴

The Worldwide Airport Slot Guidelines (WASG) have changed the definition of a new entrant to address this concern. Under the global rules, an airline is a new entrant if they hold fewer than 7 slots at an airport on that day. Whereas under the EU rules, airports need to have fewer than 5 slots at an airport on certain day to be classified as a new entrant (see section 1.4).

While it can be difficult for a new entrant to achieve sufficient scale to compete effectively, it is not impossible. EasyJet, Ryanair, Jet.com, Norwegian and others have all managed to establish a significant presence at UK airports. This can depend on the ability, and willingness, of airlines to acquire more slots through secondary trading. IATA has argued the global guidelines on new entrants do not only benefit legacy airlines, but aim to achieve a "balance between offering capacity to new entrants while providing for stability and reliability generated by carriers who have consistently operated slots over time."¹⁴⁵ According to IATA:

Major low-cost carriers use a significant number of slots at congested airports and are firm supporters of the [WASG]. These airlines have grown and flourished, despite a severe lack of airport capacity and compete directly with established carriers at congested airports. The inability to gain access to super-congested airports is not a reflection of the access opportunities provided by the [WASG] at the majority of airports globally, but a fundamental problem from a lack of airport capacity.¹⁴⁶

¹⁴¹ Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹⁴² Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹⁴³ Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹⁴⁴ *Ibid.*, p123

¹⁴⁵ IATA, [Worldwide Airport Slots: factsheet](#), December 2019

¹⁴⁶ IATA, [Worldwide Airport Slots: factsheet](#), December 2019

Problems with secondary trading

Slot trading can impede competition and act as a barrier to new entrants. Very few airlines have gained entry solely from buying or leasing slots. Since 2008, only two airlines, Continental and Oman Air, gained entry to Heathrow solely from buying slots and only five carriers through leasing slots. This is out of around 80 to 90 carriers that operate at Heathrow during the summer season.¹⁴⁷

There is an incentive for airlines to hold onto slots they do not want to use rather than sell them because of the market power they derive from them. The biggest buyers of slots tend to be the larger, wealthier airlines. ACL argue "due to the significant financial value which slots at the most constrained UK airports command, exchanges of high value slots often favour incumbent carriers (and occasionally new entrant carriers with the deepest pockets)."¹⁴⁸

Some airlines, according to ACL, "appear to be using secondary trading to bank slots under slot-leasing arrangements, acquiring slots for which they have no immediate use and immediately leasing them out to ensure historic rights are maintained."¹⁴⁹ The Competition and Markets Authority has argued the "strategic conduct by incumbent slot holders is likely to act as a real constraint on the effective functioning of secondary trading."¹⁵⁰

One of the Government's aims for slot reform is to improve domestic and international connectivity. At Gatwick, the majority of purchased slots were used to increase the frequency of services to existing routes, rather than to serve new destinations. Only 155 of the 2,199 weekly summer slots traded from 2008 to 2019 were used to serve new destinations.¹⁵¹ According to ACL, the UK coordinator, such examples may:

... run counter to Government's stated aims of improving connectivity to international destinations and may not be the best or most efficient use of the slots. Allocation from the pool would likely have provided a much better result for consumers. Slot sitting may encourage a proliferation of short distance flights operated primarily to enable a carrier to retain control of slots at minimal cost, rather than to meet genuine consumer demand.¹⁵²

Slot trading is meant to result in a more efficient allocation of limited airport capacity because trading, in theory, results in slots going to the airlines who value them the most and therefore would use them more. Slot trading, for instance, is supposed to encourage airlines to switch

¹⁴⁷ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁴⁸ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁴⁹ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁵⁰ Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹⁵¹ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁵² Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

from short-haul to long-haul routes, from smaller to larger aircraft and increase the average number of passengers per slot.¹⁵³ This does not always happen. Data on slot trading in the UK shows the sale of slots more often results in an increase in the number of seats per slot (thereby improving the efficiency of the slot) whereas the reverse is true when slots are leased. Also, some slots originally used for long-haul flights, have been leased to run short-haul routes, according to ACL.¹⁵⁴

The Centre for Aviation have argued it is difficult, if not impossible to establish reliable market prices for slots because prices are not consistently reported and because of the different commercial terms used. ACL closed its online slot trading platform (Slottrade.aero) in May 2017 partly because carriers preferred to make deals directly with other carriers.¹⁵⁵ The CMA argued:

Reducing the restrictions on secondary trading, such as increasing transparency of market prices, would help address some of the competition problems of the current system. Airlines would be able to respond to the opportunity cost of holding a slot, and if markets operate efficiently, airlines would in principle select the best option to maximise profits. However, if airlines are slow to respond to changes in secondary trading, and airlines expect liquidity to be limited in the future, then incumbent airlines would be less willing to trade and the lack of liquidity becomes self-reinforcing. The barriers to entry and expansion would therefore remain high.¹⁵⁶

The DfT has proposed to issue guidance on secondary to "increase transparency and ensure all interested parties are aware of which slots are being made available."¹⁵⁷

¹⁵³ Op cit., [Slot allocation and use at hub airports, perspectives for secondary trading](#), p154

¹⁵⁴ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁵⁵ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁵⁶ Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹⁵⁷ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

5. Slot reform

As set out in section 2.1, above, the UK left the European Union on 31 January 2020. The Transition Period runs until 31 December 2020, during which time EU law continues to apply. During the Transition Period the UK is legally prevented from intervening in the slot allocation process in any way that deviates from the EU rules.¹⁵⁸ As the EU rules have been transposed into UK law, those rules will still apply after 31 December until such a time as the UK Government legislates to replace them with new national rules.

The Department for Transport's draft aviation strategy, published in 2018, made the case for reforming the slot allocation process. The DfT argued the current allocation system "is not designed to stimulate a competitive market environment and has no means of taking into account broader objectives".¹⁵⁹ The DfT made a series of proposals which broadly fall under one of the four following areas:

- administration
- competition
- efficiency
- connectivity

Examples of some of the proposals the DfT put forward are set out in the table below. The DfT reaffirmed its intention to look at reforming slot allocation in response to the Transport Select Committee's June 2020 report on aviation. The DfT said:

The UK Government has been actively considering, for some time, whether there is a need to reform UK slots policy. This work will now need to take account of the impacts that Covid-19 has had on the industry, with the aim of ensuring that the slot allocation process encourages competition and provides the connectivity that UK consumers need. The Department is currently working on a recovery plan for the sector out to 2025. The plan will be broad in scope and will consider the role of the slot system in rebuilding a competitive aviation sector – building on work to date, including the advice of the Competition and Markets Authority on the competition impacts of the slot allocation process. This will be developed in consultation with industry and colleagues across Government and the devolved administrations for an Autumn publication.¹⁶⁰

¹⁵⁸ Transport Committee, [The impact of the coronavirus pandemic on the aviation sector: Government and Civil Aviation Authority Responses to the Committee's Second Report Second Special Report of Session 2019–21](#), HC 745, 7 September 2020

¹⁵⁹ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹⁶⁰ Transport Committee, [The impact of the coronavirus pandemic on the aviation sector: Government and Civil Aviation Authority Responses to the Committee's Second Report Second Special Report of Session 2019–21](#), HC 745, 7 September 2020

Competition	Efficiency	Connectivity	Administrative
<ul style="list-style-type: none"> • prioritising competition between airlines in reformed slot allocation processes, including the allocation of new Heathrow capacity. • an in-depth review of slot allocation by the competition authorities. • an enhanced role for CAA in the monitoring of airline services and competition, with scope to intervene. • changing the 'new entrant' rule to allow new entrants or smaller incumbents to build presence at constrained airports. • guidance to increase the transparency of secondary trading, including ways to ensure interested parties are aware of available slots. • selling slots for a predetermined price, depending on the time of day. • considering market-based mechanisms for release of additional capacity, including auctioning slots. 	<ul style="list-style-type: none"> • allocating slots or 'bundles' of slots to airlines that will operate cleaner or quieter aircraft. • allocating a set of slots in 'bundles' designed to enable carriers to optimise operations. • considering slot 'renting' so that more slots are returned to the pool rather than being used inefficiently, creating churn in the system. 	<ul style="list-style-type: none"> • allocating slots or 'bundles' of slots, so all or a certain proportion of them are used for domestic routes or new international routes. • issuing guidance to the independent slot coordinator, ACL, on the allocation of new capacity at Heathrow, which prioritises new routes over existing routes. • ring-fencing suitable time slots to ensure that at least 14 UK airports can have routes to an expanded Heathrow. 	<ul style="list-style-type: none"> • earlier allocation of slots at a severely constrained airport with new capacity to support operational planning (currently slots are allocated six months in advance). • consider whether to allow airlines to re-time their existing slots into more desirable newly-created and, if so, whether they should be given priority over new slots that are allocated.

The EU has been attempting to reform its rules for a decade and has had little success.¹⁶¹ Research commissioned by the European Commission, published in 2011, found that “many stakeholders considered that the [Slot] Regulation is working well and needed little if any change”.¹⁶² One commentator noted:

The drive for these repeated reviews has come from EU commission staff, conscious of the inefficiencies of the current slot regime. Airports, ATC providers and incumbent airlines, on the other hand, seem unwilling to change the status quo. Thus, there is little progress on a reform of the EU Slot Regulations, strongly indicating the difficulty of amending rules that create concentrated constituencies of winners even where there are very large numbers of unorganised losers.¹⁶³

5.1 Market-based mechanisms

Alternative ways to allocate slots have been proposed for a number of years, with the aim of better aligning the economic incentives to deliver more efficient use of available airport capacity. These include the use of secondary trading, primary auctions, and congestion pricing.¹⁶⁴ As noted above, there is already an active secondary market at some of the UK’s busiest airports.

The theory is that “market mechanisms would improve allocative efficiency” by bringing appropriate incentives to bear to ensure slots are allocated to whomever values them the most.¹⁶⁵ The CMA has said there is a strong theoretical case for the use of market-based mechanisms, especially auctions, as a mechanism for allocating slots.¹⁶⁶ The DfT’s draft aviation strategy said the Government is considering whether market-based mechanisms, such as an auction, could be used for the release of additional capacity.¹⁶⁷ The DfT draft aviation strategy said:

The government recognises that there are concerns relating to this option in the industry. The CMA found there was a strong theoretical case for market-based mechanisms such as well-designed auctions but also noted inherent risks and uncertainties: allocating a portion of new slots without ‘grandfather’ rights (or limiting the grandfather period) so that airlines cannot retain them for successive equivalent seasons resulting in slots being made

¹⁶¹ See: Steer Davies Gleave for the EC, [Impact assessment of revisions to Regulation 95/93: Results of stakeholder consultation](#), March 2011; [COM\(2011\) 827 final](#), 1 December 2011; and EC press notice, “["Better Airports" Package Launched](#)”, 1 December 2011

¹⁶² Op cit., [Impact assessment of revisions to Regulation 95/93](#), p123

¹⁶³ Op cit., [Airport Slots: Can Regulation be Coordinated with Competition?](#), p8

¹⁶⁴ Op cit., [Airport slot allocation: performance of the current system and options for reform](#), p2

¹⁶⁵ Op cit., [Airport slot allocation: a time for change?](#), p282 and op cit., [Airport slot allocation in Europe: economic efficiency and fairness](#), p2

¹⁶⁶ Competition and Markets Authority, [Advice for the Department for Transport on competition impacts of airport slot allocation](#), December 2018

¹⁶⁷ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

available at the end of each season, or after a given period of time.¹⁶⁸

IATA said they oppose any consideration of market-based primary slot allocation mechanisms. They argue market-based mechanisms have been:

... analyzed on many occasions in the past, by multiple independent academic and expert organizations, with no clear indications that such mechanisms improve the utilization of already-congested airport capacity or provide benefits to improving customer experience and choice in connectivity and fares. The unintended consequences to the global air transport network of such potential alternatives represent a much more serious risk of distorting the system than would outweigh any theoretical benefits.¹⁶⁹

Despite the theoretical potential, the practicalities and politics of change have prevented any widespread use of such mechanisms to date. For example, the Airports Commission, which looked at the options for airports expansion in the South East of England between 2012 and 2015, considered whether changes to create a more market-based slots regime could enable better use of existing airport capacity. It concluded that “there may be a case for a review of slot allocation mechanisms in the longer term [but there is no] prospect of change in the short or medium term”.¹⁷⁰

5.2 Deviating from the global guidelines

If, and when, the Government chooses to reform the current rules for slot allocation, one of the key questions is how far it chooses to deviate, if at all, from the Worldwide Airport Slot Guidelines. As explained in section 2, above, these global guidelines provide the framework for slot allocation around the world, including in the EU where they have been (with some minor differences) transposed into the EU rules. IATA’s response to the DfT’s draft aviation strategy strongly discouraged the UK from:

... unilaterally departing from the global best practice embodied in the [WASG]. Doing so will ostracise UK aviation from the global network, easily outweighing any potential benefits that might be seen from a divergent approach.¹⁷¹

IATA also said that “deviations [from the WASG] – if any – should be limited in scope and in the airports and situations (i.e. significant new capacity at LHR) to which they apply”.¹⁷² Airport Coordination Limited

¹⁶⁸ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹⁶⁹ International Civil Aviation Organization, [Agenda Item 39: Economic Regulation of International Air Transport — Policy AIRPORT SLOT ALLOCATION, Presented by the International Air Transport Association, ASSEMBLY — 39TH SESSION, A39-WP/3401 EC/33 30/8/16](#)

¹⁷⁰ Airports Commission, [Interim Report, Appendix 1: Assessment of Short- and Medium-Term Options](#), December 2013, p23

¹⁷¹ International Air Transport Association (IATA), IATA Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019

¹⁷² International Air Transport Association (IATA), IATA Submission on Airport Slots: Aviation 2050 — the future of UK aviation, June 2019

(ACL) also emphasised the value of retaining some consistency with the EU rules and global guidelines on slot allocation. In its response to the DfT's consultation on its draft aviation strategy, ACL said:

it is important not to lose sight of the need for some consistency of allocation rules within Europe and the rest of the world. This should in no way act as a barrier to positive regulatory change, or to the freedom of the UK Government to set its own rules (some other major countries do not follow the IATA Worldwide Slot Guidelines). However, slot allocation at UK airports cannot be viewed in isolation; any impact up or down route may need to be considered. Consistency of slot allocation rules within the EU and worldwide is valued by airlines, particularly in the timetable of slot coordination but also in having greater certainty about the outcomes of applications for slots and not having to deal with differing coordination principles from country to country.¹⁷³

The DfT has said it is committed to “work constructively with the industry, IATA and the countries the UK has aviation links with, to consider how to develop the existing slot allocation system to deliver the best outcomes for the consumer”.¹⁷⁴ The DfT has also indicated previously that it plans to retain certain aspects of the current rules, such as:

- ensuring slots continue to be allocated in a neutral, transparent and non-discriminatory way;
- continuing to have slot co-ordination carried out by an independent co-ordinator; and
- ensuring slot allocation remains in line with industry standard timetables.¹⁷⁵

Heathrow Airport: slot reform and airport expansion

Part of the reason why the Government was considering reforming slot allocation was to achieve the most desirable outcomes from the release of extra capacity from a new third runway at Heathrow Airport.

Aviation 2050, the DfT's draft aviation strategy, published in 2018, noted that expansion at Heathrow Airport would be “the first time a significant number of additional slots have been released at a severely congested airport in the UK”.¹⁷⁶ The Government, at the time, expected demand to “outstrip supply, especially at certain times of the day”.¹⁷⁷ The DfT argued “it is crucial that the allocation process is right and

¹⁷³ Airport Coordination Limited, [Aviation 2050: The future of UK aviation. ACL response to Sections 3.46 to 3.65 of the consultation document](#), August 2019

¹⁷⁴ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹⁷⁵ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹⁷⁶ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹⁷⁷ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

working to ensure the best outcome for the consumer.”¹⁷⁸ The Government’s priorities for the release of this new capacity was to:

- facilitate effective competition between airlines to create efficiency;
- improve domestic connectivity, by protecting slots to support at least 14 domestic routes; and
- improve connectivity to international destinations that are currently unserved or underserved.¹⁷⁹

For various reasons, the DfT’s view was that the current rules would not adequately fulfil these objectives. The DfT’s draft aviation strategy stated:

The government believes that the current process for slot allocation can create issues at highly constrained airports. The existing process can limit competition in the market and is unlikely to produce the best outcomes for consumers. Where there is significant new capacity being made available at a highly constrained airport, such as Heathrow, some of these issues can be heightened and prevent the efficient allocation of scarce capacity.¹⁸⁰

The DfT signalled it was considering auctioning the newly available capacity at Heathrow once it came on stream; ring-fencing slots for domestic routes; and issuing the slot coordinator, ACL, with guidance on the objectives for the allocation of newly created slots. John Holland-Kaye, Heathrow’s Chief Executive, recently told the Transport Select Committee that its third runway would not be needed for 10-15 years because of the coronavirus pandemic.¹⁸¹

5.3 Slots reform and Covid-19

The pandemic has had devastating impact on the global aviation industry. Demand for passenger travel is expected to take at least 2-3 years to return to pre-2019 levels, but some industry leaders have forecasted an even longer recovery. Stewart Wingate, Gatwick Airport’s Chief Executive, said air travel may not return to pre-pandemic levels for 5 years.¹⁸² Many industry leaders have said that this is the worst crisis in the history of aviation and that they expect the industry to structurally change as a result of the pandemic.¹⁸³ Alex Cruz, the former Chairman and Chief Executive of British Airways, told the Transport Committee:

we can find lots of information to support that this is going to be a very long recovery process, during which we will have some

¹⁷⁸ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹⁷⁹ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹⁸⁰ HM Government, [Aviation 2050: The future of UK aviation - a consultation](#), December 2018, Cm9714

¹⁸¹ Transport Committee, [Oral evidence: Coronavirus: implications for transport](#), HC 268 Wednesday 6 May 2020 Q79

¹⁸² [Five-year wait for airports to get numbers back](#), Metro, 1 September

¹⁸³ [British Airways owner IAG says crisis worst in its history](#), BBC News, 31 July 2020

fundamental structural changes to the make-up of our passengers and demand across the globe.¹⁸⁴

Impact of Covid-19 on the UK aviation market and slots at UK coordinated airports

It is not yet clear how the market will change as a result of the pandemic, and what consequences this will have for the slots airlines hold at the UK's Level 3 airports.

Airlines and airports have been hard hit by the crisis. Many airlines, in the UK and abroad, are struggling financially and have had to cut costs and seek support from governments and private investors. Virgin Atlantic and British Airways, in response to the pandemic, have suspended operations at Gatwick Airport, choosing instead to concentrate flights from Heathrow.¹⁸⁵ Virgin Atlantic has signalled its plans to lease its Gatwick slots to other airlines, rather than sell them or return them to the slot pool.¹⁸⁶ Gatwick Airport has urged Virgin Atlantic to sell its slots to other competitors if it no longer plans to use them. From Gatwick's perspective there are other airlines, such as Vueling and Wizz Air, which are interested at expanding their presence at the airport.¹⁸⁷

European Commission suspension of the 80/20 rules

The European Commission waived the 80/20 rule for the summer and winter season 2020/21. This meant airlines had no threat of losing their slots if they did not fly. Wizz Air, a new low-cost carrier, opposed the waiver because it meant its competitors could retain slots they did not plan to use. Alex Cruz, the former Chief Executive and Chairman of British Airways, told the Transport Select Committee he expected a lot of airlines would have gone bankrupt without the latest winter waiver.¹⁸⁸

Potentially one of the first decisions the UK Government faces on slots from January is whether to continue the EU's waiver for the remainder of the winter season. The UK Government may then be faced with the decision of whether to suspend the 80/20 rule for the summer season from March 2021. Different routes from UK airports may recover at different speeds. Airlines serving long-haul destinations are predicted to face a longer recovery than short-haul routes.¹⁸⁹ By March next year, travel to some countries may have returned to a point where the 80/20 rule can effectively be reintroduced, but this may not be the case for all countries.

¹⁸⁴ Transport Committee, [Oral evidence: Coronavirus: implications for transport](#), HC 268 Wednesday 16 September 2020

¹⁸⁵ [Coronavirus: Virgin Atlantic to cut 3,000 jobs and quit Gatwick](#), BBC News, 5 May 2020

¹⁸⁶ [VIRGIN ATLANTIC TO CUT 3,150 JOBS AND STOP FLYING FROM GATWICK](#), The Independent, 5 May 2020

¹⁸⁷ [Coronavirus: Gatwick chief makes appeal to BA, Virgin](#), The Argus, 10 June 2020

¹⁸⁸ Transport Committee, [Oral evidence: Coronavirus: implications for transport](#), HC 268 Wednesday 16 September 2020

¹⁸⁹ [Recovery Delayed as International Travel Remains Locked Down](#), International Air Transport Association (IATA), 28 July 2020

The Government could face a difficult choice over whether to waive the rule while travel to long-haul destinations recovers or whether to reintroduce the 80/20 which could result in some slots being returned to the pool. Airlines could respond to this in various ways. For example, leasing some of their slots to other airlines through to running ghost flights. Re-imposing the 80/20 rule could help new entrants gain access to very congested airports such as Heathrow. However, for many airlines it could make an already difficult recovery even harder and could result in some airlines going bankrupt, as Alex Cruz, British Airways' former Chief Executive and Chairman alluded to.¹⁹⁰

5.4 Reform of slot allocation in the UK from 1 January 2021.

Parliamentarians from across the House have suggested the Government review the slot allocation process, particularly the criteria used to allocate slots once the Brexit Transition Period has ended. MPs have called on the Government to reform slot allocation to strengthen competition and connectivity, as the Government already signalled it was planning to do.¹⁹¹

The Transport Select Committee noted "there has been considerable structural and market change within the aviation industry as a result of the pandemic, including the consolidation of airlines at specific airports. These changes may go on for years and could have serious impacts on consumer choice."¹⁹² The Transport Committee recommended that the DfT and the CAA:

... explore every avenue available to ensure that recent changes and their impact on the availability and distribution of airport slots do not unfairly impact passengers. This should include referring the whole aviation industry to the Competition and Markets Authority for a market study and possible investigation.¹⁹³

There have also been calls from MPs for slots to be allocated based on an airline's investments in the UK and its social responsibility, especially towards its employees.¹⁹⁴ Parliamentarians, including members of the Transport Select Committee, and trade unions called on the Government to remove slots from British Airways, especially its slots at Heathrow where it is the dominant airline, in response to the airline's proposed redundancies and changes to staff terms and conditions.¹⁹⁵

¹⁹⁰ Transport Committee, [Oral evidence: Coronavirus: implications for transport](#), HC 268 Wednesday 16 September 2020

¹⁹¹ House of Commons Chamber, Aviation Sector, 10 September 2020, [Volume 679](#)

¹⁹² Transport Committee, [The impact of the coronavirus pandemic on the aviation sector Second Report of Session 2019–21](#), HC 268, June 2020.

¹⁹³ Transport Committee, [The impact of the coronavirus pandemic on the aviation sector Second Report of Session 2019–21](#), HC 268, June 2020.

¹⁹⁴ House of Commons Chamber, Aviation Sector, 10 September 2020, [Volume 679](#)

¹⁹⁵ [British Airways must be stripped of landing slots](#), MPs demand, The Telegraph, 10 July 2020

¹⁹⁶¹⁹⁷ However, as mentioned above, the EU rules that apply in UK law legally prevent the Government from intervening in the slot allocation process. ACL and the Competition and Markets Authority can only intervene in specific circumstances (see section 2.3). For example, ACL can remove an airline's historic rights to slots if the following season in they intentionally and continually breach the 80/20 rule.

¹⁹⁶ [Government must review British Airways' landing slots says Unite](#), Unite the Union, 3 June 2020

¹⁹⁷ The airline now expects to make fewer redundancies than previously planned and has reached agreements with a number of trade unions which allow for adjustments to employees' existing contracts. BA had signalled it would consider issuing all employees with a notice of dismissal and other selected employees' contracts on new terms and conditions if it could not reach an agreement. This was labelled as "fire and rehire" by trade unions.