

## Guidelines for Slot Allocation 2012

### Introduction

The Guidelines for Slot Allocation (“**Guidelines**”)<sup>1</sup> were introduced in October 2012 with the view to ensure efficient use of infrastructure of, particularly, Level 3 airports in India. For the purpose of slot allocation, airports have been classified into three categories. Level 1, where the capacity of airport infrastructure is adequate to meet the demands of airport users. Level 2, where the capacity of infrastructure suffers only during rush hours but is manageable otherwise. Level 3, where the airport infrastructure is scarce and unable to meet the demands of the airport users at all times. Given the increasing number of air travelers and airlines, most airports in India fall within the Level 3 category.

This bulletin assesses the history and functioning of the Guidelines with a view to overcome the difficulties faced by airlines and airports for slot allocation in India, while discussing the scenario of slot allocation pre and post 2007 by the Airport Authority of India (“**AAI**”), and once these Guidelines are implemented.

#### 1.1 Background

Prior to 2007, the AAI allocated slots on applications made by the international and domestic airlines at the beginning of each season i.e. summer and winter. For slot allocation in defence airports,<sup>2</sup> an application had to be made to AAI as well as Ministry of Defence. With modernization of certain airports in India through the public private partnership model in 2007, the Ministry of Civil Aviation (“**MoCA**”) issued revised procedures for allocation which authorized the airport operators of four airports, namely Delhi, Mumbai, Bangalore and Hyderabad to allocate slots for those airports and AAI continued to allocate slots for other airports. However, there were a number of shortcomings under the procedures implemented as: **(a)** the allocation once made could not be cancelled leading to wastage of slot if the airline failed to utilize it; **(b)** the information for available slots was not published in the public domain, so there was no way of finding out if slots were available or remained un-allotted; **(c)** there was also no fixed date for filing slot applications. Therefore, MoCA felt the need to introduce well defined slot Guidelines.

#### 1.2 Guidelines

Despite the need for allotment guidelines way back in 2007, only in 2011 were guidelines framed to bring about fair, equitable and transparent mechanism for slot allocations. Under the Guidelines, Director General of Civil Aviation (“**DGCA**”) issues letters to domestic airlines for filing application for schedules four months in advance. AAI

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<sup>1</sup> “**Slot**” refers to the permission given by coordinator for optimum utilization of a level 3 airport on a specific time and date.

<sup>2</sup> Airports used by military aircrafts and managed by the Ministry of Defence.

and airport operators publish notice on airport capacities charts with regard to runways, apron and terminal etc. so airlines can plan their schedule and ascertain ground staff accordingly. The airport operators prepare a draft allocation schedule which the slot allocation committee finalizes. In case any airline does not utilize the slot allocated to it for a month, the adequacy of which is ascertained by the DGCA, the slot may get cancelled. It is peculiar that the Guidelines do not mention the criteria for assessing how well a particular slot is utilized, making it an arbitrary practice. According to the DGCA, this condition is a part of the Civil Aviation Requirement<sup>3</sup> where the airline has to inform all the concerned agencies of its inability to utilize/cancel slot allocations. Certain crucial aspects of the Guidelines are discussed below:

### 1.3 Coordination Committee

Under the Guidelines, a designated committee for managing capacity called the “Coordination Committee” is required to be set up and this committee consists of: **(a)** the airport operator of the airport concerned and **(b)** representatives of AAI and DGCA. This Committee is required for all airports, irrespective of its Level and is assigned the task of conducting a thorough analysis of the demand on the airport’s capacity, infrastructure, operational and environmental constraints and help airports/airlines manage slot allocations. It can declare a particular airport as a Level 3 airport for a particular season *for example* at the time of Olympics or World Cup where the committee expects a drastic rise in passenger and goods traffic for a limited period of time. Specifically for all Level 3 airports, it is mandatory to have a designated independent coordinator who is responsible for allocation of slots in a neutral and transparent manner.

### 1.4 Historicity, determination of historic slot allocation and dispute resolution

The Guidelines lay emphasis on “historicity” with regard to slot allocation only on Level 3 airports. This implies that an airline will be allocated slots on the principle of historic precedence, and in order to get such precedence, the airline must have utilized 80% of its slot in the previous season. In short, it applies the principle of “*use it or lose it.*” The eligibility criteria considers: **(a)** Usage of the series of slots held on historic baseline date i.e. January 31 (*winter schedule*) and August 31 (*summer schedule*); **(b)** In case of newly allocated slots after the historic baseline dates, the 80% usage is to be calculated from the date on which allocation was first made; **(c)** slots allocated on *ad hoc* basis are not to be considered for historic precedence. Cancellation of slots after the historic base line date will be considered as non-utilization and form part of 80% usage calculations unless the non-utilization is justifiable *i.e.* due to closure of airports, severe weather, strikes and other conditions which are not under the control of the airline. The coordinator is required to monitor airlines in connection with ascertaining historic precedence, non utilization and misuse of slots. The activities amounting to slot misuse are holding of slots without the intention to utilize, utilizing the slots at a different time than that allocated by the coordinator etc. No airline can operate from a Level 3 airport without having a designated slot.

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<sup>3</sup> Civil Aviation Requirement (“CAR”) is series of policies and procedures issued by the Directorate General of Civil Aviation such as CAR on airworthiness.

Under the Guidelines, airlines are required to submit their initial slot allocation requests to the coordinator. The coordinator then draws up a plan which is communicated to the airlines and published on the airport operator's website. The coordinator will provide each airline with a slot allocation list with the details of historic slots of the airline. This list also mentions any changes from the initial request submitted by the airlines. In case a coordinator notices that an airline has not requested for a historic slot, it will notify the airline seeking clarification and in case the airline does not respond within 24 hours, the coordinator has the freedom to allocate the slot to some other airline.

The Guidelines also discuss supplementary considerations for determining slot allocation such as airlines with longer effective period of operation will be given priority and airlines operating different types of service such as scheduled, cargo, chartered running in markets like domestic, regional and long haul will get preference. Similarly, if operation of an airline has been constrained due to curfews or any activity not within the control of that airline, it will be given preference in another airport. A dispute resolution committee constituted by the Joint Secretary of MoCA, members of AAI and DGCA (*in case of defence airports, the Ministry of Defence will also form part of such a committee*) is provided with the charge of resolving any disputes relating to slot allocations.

### 1.5 How Guidelines have been perceived so far?

These Guidelines were framed with the view to bring slot allocation in India in sync with international standards and practices. The issue of slot allocation has become global and requires compatible, if not aligned, rules, all over the world to prevent constraints on the development of the air transport industry. However, it appears that the Guidelines provide a lot of arbitrary authority in the hands of the independent coordinator and taking the decision making powers away from the airport operator. This adversely impacts airport operators, who have brought forth their apprehension before the MoCA.

The objections and criticisms mentioned to the MoCA highlight the fact that by providing the independent coordinator such arbitrary authority, it may be detrimental to the aviation sector as allocation of slots have a possibility of being linked to concession agreements and operation, management and development agreements. The Association of Private Airport Operators (“**APAO**”) have put forth recommendations to MoCA stating that the airport operator alone should be responsible for allocation of slot and infrastructure of the airports. With regard to historicity, 90% of usage requirement should be taken into consideration for calculating historic precedence instead of 80%. As keeping usage to 90% will prove beneficial for passengers as well as airport operators and will reduce incidents of cancellation of flights and misuse of allocated slots thereby ensuring optimum utilization of resources. Additionally, APAO has proposed that slots of airlines should be cancelled which are not making payments regularly or use slots intermittently. APAO has also suggested that the Guidelines include a penalty clause for misuse of slots and in case of merger, bankruptcy or non operation of airlines, slots should be automatically returned to the airport operators. There is no such clause presently, leading to much lenient treatment of airlines which flout the requirements under the Guidelines and thereby cause airports to function with lesser efficiency. While legally, the independent coordinators will be well within their rights to decide the issue of slot allotment based on the Guidelines, it appears the APAO feel

operationally; operators would be in a better position to make such decisions. Additionally, the Guidelines still do not address specifics of the reasons for cancellation of slots, providing a lot of arbitrary power in the hands of the independent coordinator, which if left unchecked, may cause it to abuse such provisions to the detriment of Indian aviation.

## **Conclusion**

Presently, the provisions under the Guidelines do not provide the much needed transparency to improve the efficiency with which international airports function. Based on the criticisms of the Guidelines provided by the APAO, the MoCA is considering amending the guidelines with a view to satisfy all stakeholders and ensure proper and efficient utilization of airport infrastructure and capacity and let airport operators exercise their clout at the airports. It remains to be seen how the recommendations are implemented by the MoCA; however, it is a big step in developing the Indian aviation sector and a plausible effort in bringing Indian airports closer to the ultimate target of meeting and eventually surpassing international standards.

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