

Brussels, 17 March 2020

## Open letter to EU Transport Ministers

### ahead of the EU Transport Ministerial Meeting of 18 March 2020

Dear Transport Ministers,

COVID-19 will have a severe impact on Europe's economy this year while also negatively impacting the financial health of Europe's airlines. Considering that currently cancellation numbers are higher than new bookings, and increasing travel bans have led to massive aircraft groundings, it is already clear that the impact will be substantial - with the likelihood of a large number of EU airlines experiencing a massive, short-term financial decline.

In order to ensure that as many airlines as possible survive the present difficulties and can help drive the economic recovery when restrictions related to the virus are lifted, a comprehensive package of measures is urgently required.

We consider that this unprecedented crisis mandates an unprecedented response: ahead of your meeting tomorrow, we call for the following ambitious and coordinated actions at a European level:

#### 1. Flight bans and the European Single Aviation Market

As we know, the virus has spread to most EU Member States and knows no borders. As noted by the WHO<sup>1</sup>, a balance must be struck between effective measures to contain the virus and limits to economic and social disruption. Most European countries have imposed flight bans or other measures restricting air connectivity in Europe. Unilateral measures directly impact the functioning of the European Single Market, which is the cornerstone of Europe's economic activity.

Europe must preserve essential minimal connectivity, for which airlines are an instrumental part. Any restriction, in particular within the Schengen area, must therefore be based on a careful risk assessment and be proportionate to the public health risk.

In this context, we welcome the guidelines issued by the European Commission on 16.03.2020 for border management. We also appreciate EASA's Safety Information Bulletin (SIB 2020-02) and Safety Directive<sup>2</sup> (13.03.2020), providing recommendations to National Aviation Authorities to reduce the risk of spreading COVID-19. We strongly call for a coordinated approach between Member States, including with third countries. In this crisis, it is essential to guarantee that passengers are repatriated in an orderly and organised manner.

<sup>1</sup> "In general, evidence shows that restricting the movement of people and goods during public health emergencies is ineffective in most situations and may divert resources from other interventions. Furthermore, restrictions may interrupt needed aid and technical support, may disrupt businesses, and may have negative social and economic effects on the affected countries."

<https://www.who.int/news-room/articles-detail/updated-who-recommendations-for-international-traffic-in-relation-to-covid-19-outbreak> - WHO, 29.02.2020

<sup>2</sup> <https://www.easa.europa.eu/newsroom-and-events/press-releases/easa-issues-safety-directive-combat-spread-covid-19-airline#group-easa-downloads>

European airlines call on EU governments to coordinate their response, preserving the European aviation single market and its benefits in the long run. It is vital that the economic supply chain continues throughout this crisis: therefore, cargo aircraft, ships and trucks must be able to operate, with special precautions to protect crews and the general public. Cargo airlines are doing everything possible to keep open supply chains, including to countries in full or partial lockdown such as Italy, France and Spain. Air cargo has proved central in providing the necessary circulation of goods, in particular medical supplies which are urgently needed in many European countries. However, airlines are facing significant problems with different interpretations of directives and guidance by individual countries. In addition, guidance exempting cargo flights and cargo flight crews from restrictions should be issued at European level.

Finally, we call on Member States and the EU to ensure that transport, in particular aviation, can resume their normal activities as soon as the health crisis is over. Collectively, we need to start preparing for recovery.

## 2. Stimulus package and support to the air transport sector

At this point, many of Europe's airlines have made the difficult decision to ground all or a substantial part of their fleet (even up to 90%) for the coming weeks. Many carriers have also been forced to proceed with (temporary) staff cuts. In Europe, airlines support 2.6 million direct jobs and 12.2 million indirect jobs<sup>3</sup>. It will take time, financial sacrifice and hard work for our airlines to recover from the damage caused by the COVID-19 outbreak. Considering this, we call for the deferment of ATC charges<sup>4</sup> and aviation taxes at EU or national level to aid in the sector's future recovery. Any fiscal burdens should be postponed or suspended until the industry is back on a sound operational and financial footing.

The airline community welcomes the stimulus package announced by the European Commission on 13.03.2020. However, state aid rules must not distort competition amongst airlines.

European airlines should also be eligible to direct support from the EU funds, like the EU Coronavirus Response Investment Initiative, made available to tackle the economic crisis, as they will be instrumental in ensuring a swift recovery of the European economy at large. EU and national measures should ensure liquidity for airlines, via guarantees or credit facilities for instance.

Furthermore, European airlines urgently need - and will continue to require for a certain time – an EU-wide alleviation on crew training requirements. In this context, we call on a coordinated European exemption (EASA) in order to extend expiring licenses because of restrictions in training and/or training facilities.

## 3. Airport slots

In its 13.03.2020 proposal amending Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports - COM(2020) 111 final – the European Commission proposed to grant airlines a temporary waiver on the airport slots 80/20 rule through 30 June 2020.

European airlines consider that the Commission's proposal is a good first step. However, the severe impact of the crisis, which has effectively led to a collapse in the demand for air travel and will see massive aircraft groundings, will be felt beyond June. In order to provide greater legal clarity and predictability, but also to avoid seeking extensions on a rolling basis, Member States should consider extending the

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<sup>3</sup> ATAG report, 2018

<sup>4</sup> Article 29 (6) of the Implementing Decision (EU) 2019/903

waiver to the full length of the summer season (i.e. until end of October 2020). We call on EU Transport Ministers to swiftly adopt the temporary slot waiver.

#### 4. Extraordinary circumstances and guidance on EU261 (air passenger rights)

European airlines urgently require clarity on the possible application of Regulation EU261/2004 in the present situation. The COVID-19 crisis has reduced demand for air travel and led to travel restrictions across EU Member States and to/from several third countries. Wide-ranging cancellations are unavoidable and manifestly caused by circumstances beyond airlines' control. An official declaration from Transport Ministers and/or National Enforcement Bodies (NEBs) should immediately advise that COVID-19 constitutes "extraordinary circumstances" and hence does not give rise to compensation payments. We understand that the European Commission is working on guidelines related to the application of EU261 in light of the current situation, and note that it has already referred to COVID-19 as "[exceptional circumstances](#)" in the context of state aid.

We would also find it reasonable under the present circumstances if the "right to care" were somehow limited. To this end, the Commission had proposed in 2013 that air carriers may limit the right to accommodation to 3 nights with a maximum of €100 per night and per passenger. We would urge the Commission to advise EU Member States and/or National Enforcement Bodies (NEBs) to apply this limit under the current crisis, pending the future revision. To be clear, we will look after passengers and staff as best as we can under the circumstances but any measures that can help us to reduce the financial impact are much needed.

Furthermore, consideration should be given to the requirement to provide cash refunds to travellers within 7 days following a flight cancellation for which there is no alternative. The recognition of COVID-19 as "extraordinary" will not alter this right, meaning that passengers are likely to ask for their money back *en masse*. This could have serious financial implications for airlines in the short term. EU Member States and/or NEBs should consider accepting a system of travel vouchers as an alternative to immediate refunds and as an exceptional temporary measure. Refunds would only be due after a certain period of time in case travellers would not use their travel vouchers.

Similarly, in light of the numerous travel restrictions and grounding of fleets, the right to re-routing should be re-considered under the current circumstances. In some cases, a refund or a voucher for travel at a later date may be the only practical solution, provided this is accepted by the customer. We would urge EU Member States and NEBs to allow flexibility in this regard.

As the health and economic crisis keeps evolving, we remain at your disposal to discuss these ideas in more detail at your convenience.

Yours sincerely,

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