

## Position Paper

17 January 2008

### AEA Comments (17<sup>th</sup> January 2008) to

### **EASA Notice of Proposed Amendment (NPA) No 2007-16 (Extension of the EASA system to the regulation of Air Traffic Management and Air Navigation Services)**

#### **General AEA comments:**

The AEA strongly supports the general principle to extend EASA's scope to ATM safety regulation in order to ensure that EASA becomes the single safety regulator for all aspect of the aviation value chain, in line with the recommendations of the High Level Group.

An extension of EASA's scope to ATM safety regulation will require a political commitment to increase the public funding to EASA's budget so that EASA is properly resourced for those new tasks. It will also require a clear transition-plan and commitment to wind down the Eurocontrol Safety Regulation Unit (SRU) and Safety Regulation Commission (SRC) when EASA's assumes responsibility. The JAA Transition Office (JAA-T) could be assigned new roles in this field to represent the non-EASA member States of Eurocontrol at EASA (similar to its existing role for the non-EASA JAA member States in other areas within EASA's field of competence such as aircraft certification, airworthiness, flight operations and flight crew licensing).

Although EASA's main role is safety, an ATM system and an Air Navigation Service Provider, must balance safety with capacity and the environment. Taking safety as the only parameter is too simple and may result in too many restrictions. All future EASA implementing rules should therefore be based on a comprehensive Regulatory Impact Assessment which is acceptable to the major stakeholders (such as the airlines) and which takes into account the impact on airspace capacity/delays and the environment along with safety objectives.

The safety certification of certain ancillary ATM services (AIS provision, CNS provision, ATC training, ATC maintenance & manufacture and Meteo services in particular) should facilitate their unbundling to ensure a competitive market and lower cost for the end users (in line with the High Level Group recommendations).

International Standardization of regulation, through ICAO, is, in particular for ATM, extremely important because airlines and other airspace users operate globally. New regulation specifically for the European airspace going beyond ICAO should be avoided unless it is driven by a positive business case to create more airspace capacity and/or clear safety justifications.

With the above in mind, the AEA stresses that the stakeholder consultation should form part of the rule making process from an early stage on, in order to prevent an unbalance between the requirements in the field of safety, capacity and the increasing demands of environmental protection.

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**Specific AEA Comments:**

27. ICAO is said to be minimum requirements but this is a globally valid requirement. The criteria to call this the minimum shall be specified to make this clear and valid as statement. EASA only regards safety which may be contradictory to practical demands, while ICAO considers all aspects.

28. ESARRs are not supporting the total system approach since they only deal with safety. A total system approach has to match safety with capacity and efficiency. The Regulatory Impact Assessment for any future implementing rules needs to consider the impact on costs and efficiency and needs to be acceptable to major stakeholders such as the airlines.

29. When the high level group has stated that safety regulation should be independently from other forms of regulation (which the AEA supports) this does not mean that ATM should not consider the balance between capacity, efficiency and safety.

32. When risks related to lacks of interoperability are mentioned the global approach from ICAO should be adopted and not set a different set of rules in Europe only since this would be disrupting the level playing field between Europe and the rest of the world and disadvantaging European carriers.

34. Here it is suggested that ATM's primary objective is to reduce risk, while the concept is to manage traffic and the available capacity.

35. Here the whole set of ATM functions is mentioned; contradictory to 34.

AEA reply to question 1:

Deciding on concepts of operation is a governmental function. This is essential to ensure independence from certain vested interest groups such as ANS Providers.

AEA reply to question 2:

These ER's are not the correct way to regulate the total ATM concept and should be adjusted to encompass more than safety only. The total package of providing capacity and an efficient traffic flow in a safe way shall be regarded including aircraft capabilities and known developments. The focus is too much on ATC requirements but the total management of capacity is much broader and shall consider independent aircraft capabilities and other future developments. Only when the total ATM concept is regarded safety has to be an integrated part but that cannot be regarded as a separate issue.

39. The airspace to be defined shall not be regulated more stringent than the rest of the world under ICAO regulation. Capacity and cost shall be considered.

AEA reply to question 3

The way airspace is managed at present and also how traffic flow management is done may not be the most efficient way at present or in the near future. This shall be adjusted to the actual situation and thus be flexible; therefore ASM and ATFM have to be considered as a service provision.

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AEA reply to question 4.

The regulation should cover the required aspects of the total ATM concept and those systems and facilities that are required including any known future developments that may have effect on the total concept. Only those systems not otherwise specified or defined by ICAO might be regulated but over-regulation shall be avoided.

52. Safety requirements for ATC should not be more stringent than ICAO unless they are driven by a business case to create more capacity in European airspace and/or unless there are justified safety reasons (based on a comprehensive RIA) for imposing such requirements. Cost involved have to remain acceptable.

AEA reply to question 5

Regulating organizations should be linked to the High Level Group's objective to unbundle ancillary ATM services. This should facilitate the creation of a real competitive market for such services to ensure lower cost for the users. Clear candidates for unbundling would be training providers, manufacture, development, maintenance providers, CNS providers, AIS services and Meteo Services.

AEA reply to question 6

Services shall be provided in accordance with the need; certification should only be required if the service can be organized in competition (or after a competitive tender for a monopoly service) independently from the core monopoly service.

AEA reply to question 7

When a certification is given this should be valid for the organization or provided services. It has to allow for several services. The objective of certification is to ensure safety while ensuring more competition for certain ATM services (to ensure lower costs).

AEA reply to question 8

A possibility should be provided for Pan European certification of service providers which offer service in a competitive market independently from the core monopoly service. The objective should again be to create a safety framework to facilitate more competition and to unbundle ancillary services to ensure lower cost for end users.

Eurocontrol should not be given any roles in the certification process in order to avoid potential conflicts of interests with other current Eurocontrol tasks (which in the future would need to be organized according to market principles).

AEA reply to question 9

As long as they are more efficient than the NSAs (eg no additional costs are involved) and as long as standardization/safety is ensured accredited bodies could be considered provided they are under strict control of EASA's standardization directorate.

AEA reply to question 10

Separate certification of systems and constituents is not considered as necessary since it will not increase safety but only create cost and administrative burden.

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### 78 (Personnel)

The AEA strongly agrees that other category of staff than ATC controllers should not be licensed but should be covered through proper implementing rules governing the service providers themselves.

### 81 (Organisations)

The objective of creating a certification scheme and safety framework for certain organisations providing ancillary ATM services (training, maintenance, manufacture, development, AIS, Meteo and CNS providers in particular) should be to facilitate their unbundling so that they can be organized in competition to ensure lower cost for the end users.

### 101 (Meteorological Information)

A safety framework should be created to facilitate the creation of a real competitive market for Meteo Services in the EU in order to ensure lower cost for the end users while ensuring safety and efficiency.

### 131 (Use of Local Language)

For safety reasons it is essential to phase out the use of local language within local EU airspace. The use of local language has already resulted in a number of serious accidents due to the loss of ‘party-line’ for foreign pilots operating in that airspace. In the interest of public safety it is therefore essential that the EU takes the lead to mandate the use of aviation English for all operations in EU airspace.

### AEA Comments to the Essential Requirements (ER)

1.d Delete the word ‘ authorised’ as this suggests that only operations with a strict authorization can be accepted in certain airspace. Any type of operation shall be accommodated but may require additional measures to be taken, but that should be possible with the required flexibility.

1.e A mechanism that air traffic volumes do not exceed the maximum airspace capacity is much too strict to define in ERs. Safeguarding the maximum capacity shall be taken care of by the service provider but not defined as a mechanism coming from the regulator.

2.b Some flexibility is required when changes to the concept or when older type of aircraft are operated a transition period may be required and should be possible.

3.a.3 and 3.b.3 incorruptible communication services are not realistic and can never be guaranteed; different wording is required. We suggest rather that communication services should meet the maximum tolerable levels of interference/corruption.

3.e.1 ‘radio’ should be deleted here as other means may be or become available.

3.g.1. Delete: ‘ delaying traffic flows’ and replace by: ‘ find other ways in order to...’

3.h.1 delete in total as this is not a function of airspace management but a burden that should be deleted and airspace to become usable completely.

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4.e.1 replace ... that a minimum level of service is maintained' by ..'that a minimum of disruption of the service is achieved.

#### 5 Qualification of air traffic controllers.

The requirements shall be based on clear safety objectives which do not unnecessarily increase costs and administrative burden. A review of the existing EU Directive for the Licensing of Air Traffic Controllers should be made based on a comprehensive regulatory impact assessment.

#### 5d Language Proficiency

The implementing rules for language proficiency of Air Traffic Controllers should be as strict for ATC controllers as they are for pilots. For safety reasons it is essential for the EU to take the lead to mandate the use of aviation English for all operations in EU airspace

Signed

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