

Position Paper

Short and mid-term requirements in the immediate aftermath of the Icelandic volcano eruption

26 April 2010

European governments closed two thirds of European airspace following the eruption of volcanic ashes from Mount Eyjafjallajökull. It is estimated that from 15-23 April, 110,000 flights will have been cancelled.

The measures to close air space were based upon a volcanic ash contingency plan for Europe that relied on volcanological material about volcanic ash and computer simulations as the key basis for regulatory decisions on appropriate measures. That model was unfit for its purpose.

The model was developed with no account taken of the models used in areas of the world used to high levels of volcanic activity. The US procedures by contrast are practical and based upon scientific data; they are fully in line with ICAO recommendations and place responsibility for the safety of the operation on the aircraft operator. Had adequate testing of the Europe contingency plan been done, it would have been clear that the Europe plan was out of step and draconian in approach compared to what is operated in the rest of the world.

For European airlines, the closure of European airspace meant the withdrawal of their operating basis. AEA airlines alone will have lost revenues totalling € 850million, (without counting the cost of assisting stranded passengers). In total, an estimated 9.5m passengers were unable to fly due to the closure of airspace.

AEA airlines will, as a consequence

1. Seek compensation for the damage incurred
2. Urge for, and contribute to, the rapid implementation of a fully harmonised and coordinated European system, operated in accordance with best worldwide practice that ensures that any future airspace restrictions are appropriate to the risks.
3. Contribute to required rapid structural changes

I. Compensation for damage

1. The Aviation Sector is seeking financial compensation for the damages incurred from the partial or total closure of European airspace. This compensation would cover all the elements of the value chain, including:
 - i. Airports
 - ii. ATC providers
 - iii. Airports' ground partners: including ground handling companies, travel retail and travel food & beverages companies, airport security companies and parking operators.
 - iv. Airlines: During the closure of air space, airlines incurred losses. They were deprived of a basis of operations. Cost assessments are ongoing.

The exact cause and effect relationships are being assessed (example: the opening of upper air space by one Member State had no impact on flights if neighbouring countries' upper air space remained closed.) Different airlines resumed services at different times and dates, to date no airline has reported a return to normal services; repatriation of passengers, is ongoing; costs for assistance to passengers are still accumulating.

The levels of cost are being assessed. These include, but are not limited to, the costs for stranded crew and aircraft positioning, re-routing, third party assistance in repatriation of stranded passengers. The exact relevant period for the closure is being assessed.

2. To reduce unnecessary further damage, governmental assistance in resuming stable operations rapidly and to facilitate the repatriation of stranded passengers, the following measures should be taken:
 - i. Operational flexibility: limitations on national/local night curfews, noise quotas, movement limits and other measures restricting the full usage of runway capacity to be suspended for the duration of the recovery period. Penalties associated with these restrictions should not apply during the temporary suspension.
 - i. Regulation 261/2004: Legal uncertainty persists as to the scope of applicability of Denied Boarding Compensation. Whilst airlines can undeniably not be expected to compensate for the consequences of the cancellation, the issue is whether airlines must cover all costs for the assistance granted to passengers. AEA airlines have commissioned legal analyses to determine whether

- Adria Airways
- Aegean Airlines
- Aer Lingus
- AeroSvit
- airBaltic
- Air France
- Air Malta
- Alitalia
- Austrian
- bmi
- British Airways
- brussels airlines
- Cargolux
- Croatia Airlines
- Cyprus Airways
- Czech Airlines
- DHL
- Finnair
- Iberia
- Icelandair
- Jat Airways
- KLM
- LOT
- Lufthansa
- Luxair
- Malev
- Montenegro Airlines
- Olympic Air
- SAS Scandinavian Airlines
- SWISS
- TAP Portugal
- TAROM
- TNT Airways
- Turkish Airlines
- Ukraine International Airlines
- Virgin Atlantic Airways

1. Regulation 261/2004 only applies when an individual airline cannot fulfil its contractual obligations, or also if an entire airline sector is prohibited from flying because of the closure of air space.
2. the exceptional and prolonged closure of air space limits the scope of legally necessary assistance to passengers. AEA is of the view that AEA airlines, which care for their passengers, under these circumstances could not do more than assist passengers to resolve their individual problems.
3. non-compensation of passenger assistance would constitute a legally relevant reversal of government policy. In all other cases of natural catastrophes, public funds are used to mitigate the consequences. This specific catastrophe did not lead to loss of lives, but airlines and passengers suffered damage and can therefore expect similar publicly funded compensation.

II. Review of current EUROCONTROL procedure to deal with safety in case of volcanic ash.

1. The current procedure requires active involvement of all the EU governments, EUROCONTROL and thus all EUROCONTROL member states. It is therefore cumbersome and unnecessarily slow, involves computer model calculations, is insufficiently based upon real time data, and is not aligned with procedures outside the European Union. The US FAA procedures by contrast are practical and based upon scientific data; they are fully in line with ICAO recommendations and place responsibility for the safety of the operation on the aircraft operator. Had adequate testing of the Europe contingency plan been undertaken in a timely fashion, it would have become clear – well in advance of any real incident - that the European implementation of the ICAO recommendations was out of step and draconian in approach compared to what is operated in the rest of the world.

Having taken the decision to close airspace to IFR traffic on the basis of poor data, the process for re-establishing stable airline operations was cumbersome, and decisions taken by individual national aviation administrations were badly co-ordinated. Furthermore, the decision taken by some administrations to distinguish between VFR (allowed)

and IFR (forbidden) presupposes that the effect of volcanic ash on hull and engines differs in function of the use of instruments.

The Commission must initiate a process to transit to an equivalent of the US FAA approach, which places the responsibility for the safety of airline operations on the aircraft operator. To this end, a Joint Working Group must be established comprising industry experts, scientists, national governments, Eurocontrol, EU institutions and ICAO. The scheme AEA strongly supports was recently developed by EUROCONTROL as "Option 2".

2. A High Level Monitoring Group must develop contingency plans, should volcanoes erupt in Europe in the near future.

III. Further necessary measures

1. Recent experience with the manner in which Europe reacted to a natural incident such as a volcanic eruption demonstrates the importance aviation for Europe's citizens and economy. AEA advocates an "Aviation Platform" as a means of addressing, monitoring and accelerating further steps to improve structurally the efficiency of Europe's aviation system. Elements of a future Aviation Platform include:
 - a. Single European Sky: Accelerated implementation of, in particular, the central performance target setting scheme. The profile of the foreseen network manager must be clearly defined in consultation with the aviation sector in light of the recent experience gained to facilitate future co-ordination and in order to avoid inadvertently exacerbating complexity in the process. Key parameters of a Single European Sky should be implemented by the end 2010 at the latest.
 - b. Avoidance of any measures at national/EU level, which could further increase costs for the European aviation industry. This includes an immediate review of national measures, such as the Air Passenger Duty (UK and Ireland) and other similar national taxes (France), which are mere general taxes and negatively impact aviation.
 - c. Public financing of additional security measures at national level: More stringent security measures beyond the EU baseline should be restrained and their financing should be considered as a State/public responsibility. As many as 350 additional national aviation security measures have been imposed in one Member State alone. These measures generate substantial additional costs.
 - d. Review the MRV provisions and procedures leading to the implementation of ETS

A joint working group including emissions trading experts, Commission and industry experts should be established to determine whether 2010 can still be maintained as baseline. Over 100.000 cancelled flights can significantly distort calculations of the parameters of certificate trading. Europe had been severely impacted by an economic downturn, its recovery before 2011 is highly unlikely, and it will recover more slowly than other regions in the wake of difficulties such as that of Greece's economy. The protracted economic crisis of 2009/2010 and the prolonged closure of air space had not been foreseeable when the roadmap for inclusion of aviation into the ETS had been established, so that the baseline 2010 should be re-assessed; if maintained, it could have consequences for a realistic implementation of a non-distortive and practicable scheme.

- Adria Airways
- Aegean Airlines
- Aer Lingus
- AeroSvit
- airBaltic
- Air France
- Air Malta
- Alitalia
- Austrian
- bmi
- British Airways
- brussels airlines
- Cargolux
- Croatia Airlines
- Cyprus Airways
- Czech Airlines
- DHL
- Finnair
- Iberia
- Icelandair
- Jat Airways
- KLM
- LOT
- Lufthansa
- Luxair
- Malev
- Montenegro Airlines
- Olympic Air
- SAS Scandinavian Airlines
- SWISS
- TAP Portugal
- TAROM
- TNT Airways
- Turkish Airlines
- Ukraine International Airlines
- Virgin Atlantic Airways

- Adria Airways
- Aegean Airlines
- Aer Lingus
- AeroSvit
- airBaltic
- Air France
- Air Malta
- Alitalia
- Austrian
- bmi
- British Airways
- brussels airlines
- Cargolux
- Croatia Airlines
- Cyprus Airways
- Czech Airlines
- DHL
- Finnair
- Iberia
- Icelandair
- Jat Airways
- KLM
- LOT
- Lufthansa
- Luxair
- Malev
- Montenegro Airlines
- Olympic Air
- SAS Scandinavian Airlines
- SWISS
- TAP Portugal
- TAROM
- TNT Airways
- Turkish Airlines
- Ukraine International Airlines
- Virgin Atlantic Airways

ANNEX

DEVELOPMENTS

15 April, several national EU Authorities totally or partially closed their airspace in response to safety concerns. Traffic volumes decreased by -27.1%.

16 April: -59.2% traffic volumes.

17 April: -76.4%. No departures and landings across most of Northern and Central Europe, including Austria, Belgium, Croatia, the Czech Republic, Denmark, Estonia, Finland, Northern France, most of Germany, Hungary, Ireland, Northern Italy, the Netherlands, Southern Norway, Poland, Romania, Slovakia, Slovenia, Sweden, Switzerland, and the U.K. Southern Europe, including Spain, the Southern Balkans, Southern Italy, Bulgaria, Greece and Turkey remained mostly open and flights were operated, at least partly, in these areas.

18 April: -79.8%. Verification flights were undertaken by airlines. LH operated 11 non-revenue verification and positioning flights from Munich to Frankfurt with A340 and B747 aircraft, as well as a Cargo flight from Frankfurt to Istanbul, and 4 flights from Frankfurt to destinations in the Russian federation. OS performed test flights between Vienna and Graz on A320 and B737. BA and KLM operated extensive testing at different altitudes, in the case of BA in the path of a test flight destined to examine the existence and composition of volcanic ash. Several non-AEA airlines likewise undertook verification/test flights. Authorities furthermore authorised test flights, and countless VFR flights had also been approved. In none of the test flights undertaken did boroscopic inspections reveal signs of irregularities or anomalies. It became apparent that the calculations used by the VAAC were insufficiently robust to warrant a total and prolonged closure of air space.

19 April: Traffic levels continued to be significantly depressed at -70%. EUROCONTROL submitted different procedural options for review. Transport Ministers politically endorsed a differentiated approach which came into force at 8.00 CET Tuesday 20 April, allowing for a progressive opening of airspace.

20 April: Traffic levels -54%. Different restrictions are implemented by individual Member States, ranging from further technical checks on approved flights after 3 hours, additional separate test flights to a partial closure of air space.

21 April, Restrictions are gradually eased throughout Europe.

IMPACT

The following numbers are preliminary estimates only. They are not exhaustive and do not capture all of the incremental costs as a result of the grounding. For the AEA, they cover the period ranging from Thursday 15 April to Friday 23 April.

AEA

- **Cancelled flights** **52,400**
- **Passengers affected** **4.3m**
- **Loss of profitability, assistance to passengers, costs for stranded crew, parking and positioning of aircraft and other cost issues amount to estimates of at least €850 m loss.**