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ALLOCATION OF LIMITED AIR TRAFFIC RIGHTS

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1 SCOPE

This Advisory Circular specifies the procedures used when issuing operating authorisations to air carriers of the European Union for routes on which air traffic rights are limited (hereinafter 'route with limited traffic rights'). For the purposes of this Circular, however, public service obligations imposed pursuant to Article 16 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community will not be regarded as a limitation.

2 TRAFFIC RIGHTS AND AIR CARRIERS' OPERATIONAL NEEDS

2.1 Information on traffic rights and their use on routes between Finland and those states outside the European Union with which Finland has concluded air service agreements is available from the Finnish Transport and Communications Agency.

2.2 The Finnish Transport and Communications Agency publishes information on forthcoming negotiations on air services between Finland and third countries on its website.

2.3 European Union air carriers interested in operating air services on a route with limited traffic rights or on a route between Finland and a state which is not a Member State of the European Union and with which Finland has not concluded an agreement on air services may inform the Finnish Transport and Communications Agency of their plans and requirements. Information received by the Agency will be taken into account when preparing Finland's negotiations on air traffic service agreements.

3 APPLYING FOR OPERATING AUTHORISATION

3.1 When an EU air carrier expresses interest in unused capacity on a route with limited traffic rights, the Finnish Transport and Communications Agency issues a notice inviting applications for operating authorisations for the route. The notice will be published on the Agency's website. The notice will specify the deadline for applications.

3.2 Applications for an operating authorisation must contain at least the following information:

- (a) copy of the air carrier's operating licence;
- (b) description of the air traffic services planned for the route (number of frequencies, aircraft fleet to be used, any intermediate landings, nature of the service (year-round / seasonal);
- (c) start date for the planned service;
- (d) type of service (passenger, cargo or other);
- (e) accessibility of the services and customer support (tickets sales network, online services, etc.);
- (f) any connecting traffic.

3.3 Applications for operating authorisations must be written in Finnish, Swedish or English and submitted to the Finnish Transport and Communications Agency's registry office by the specified deadline.

4 ISSUE OF OPERATING AUTHORISATION

4.1 The Finnish Transport and Communications Agency will grant an operating authorisation for a route with limited traffic rights to the applicant(s) considered to be the best after an overall assessment taking account of the need for passenger and/or cargo services, the promotion of competition and the balanced development of air traffic in the Union. The operating authorisation remains in force until further notice or for a period specified by the Finnish Transport and Communications Agency.

4.2 During the assessment resulting in the selection of air carriers, the Finnish Transport and Communications Agency will carry out a financial analysis of the various alternatives from the point of view of passenger and cargo traffic. The analysis will describe the market and competition situation on the route.

4.3 When assessing the applications, the Finnish Transport and Communications Agency may arrange a public hearing which all the applicants will be given an opportunity to attend. The Agency will draw up minutes of the hearing for distribution to all the air carriers which applied for an authorisation for the route in question. Applicants may submit written comments on the minutes within a specified period. If a public hearing is arranged, the Agency will not make the decision about granting the authorisation before the deadline for the submission of comments has expired.

4.4 Decisions concerning the granting of operating authorisations are notified in accordance with the Administrative Procedure Act (434/2003) and published on the Finnish Transport and Communications Agency's website.

4.5 Decisions taken by the Finnish Transport and Communications Agency concerning the granting of operating authorisations are administrative decisions, to which revision can be claimed in accordance with Section 256 of the Act on Transport Services (320/2017).

5 REASSESSMENT OF OPERATING AUTHORISATIONS

5.1 The Finnish Transport and Communications Agency may reassess a decision to grant an operating authorisation, as provided for in Section 124 of the Act on Transport Services. Authorisations will always be reassessed at the request of an EU air carrier operating air traffic services in Finland, from Finland and/or to Finland. A reassessment will not, however, be carried out within five years of an authorisation being granted or of a previous reassessment.

5.2 The authorisation holder will be informed of any reassessment, notice of which is also published on the Finnish Transport and Communications Agency's website. The notice will specify a deadline by which EU air carriers interested in using the traffic rights covered by the authorisation are required to submit their applications.

5.3 When reassessing operating authorisations, paragraphs 3.2, 3.3 and 4 will be applied in such a way that existing authorisations are not affected if the traffic rights covered by the authorisation are being used effectively and in accordance with European Union competition law and the corresponding national legislation.

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