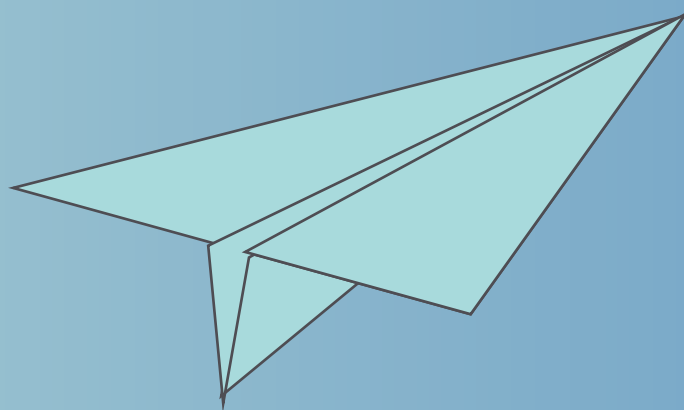


**OUT
OF THE
CO > ID
CRISIS**



Pilots' flight plan for Europe



ECA

European Cockpit Association

OVERVIEW

There are many paths our industry can take through the COVID-19 crisis, which has profoundly affected, if not crippled, European aviation. There are very few however that are in the interests of Europe's citizens, and that lead to a safe, worthwhile and sustainable future for all whom the industry serves and supports.

To do so will take active political and industrial leadership. It will mean choosing and driving the better path, not 'waiting to see', not just accepting what happens without vision or direction.

There will be a severe temptation for some, particularly those who are used to assuming the primacy of commercial interests – over the public interest, over customers, workers and the environment – to seek advantage at the expense of all other stakeholders.

That temptation will be to sacrifice or cannibalise other stakeholders in the pursuit of quick relief or profits. Such an approach will undermine the society that has previously tolerated the many faces of the aviation sector, and to which the aviation industry is responsible. It will fragment

and weaken Europe's aviation single market, and the position of European airlines and workers within it and globally.

The only way through this crisis for aviation is with stakeholders returning to strength in lock step, supporting each other's position.

We cannot simply seek relative advantage by taking bites out of each other, we must look to get all of us through in the healthiest, strongest possible position. Key to this is that the aviation industry must serve the public interest.

For Europe to get through COVID it must have a resilient aviation sector that can support and amplify the wider economy, that is responsible to the taxpayers who tolerate or support it, that is socially sustainable for those who work in it, that is environmentally sustainable for the whole of society, and that provides a high quality and fair service to the citizens who use it.

The purpose of the aviation industry is to provide for that safe, worthwhile and sustainable future for all whom it serves and supports.

No more, no less.

01

Making aviation more sustainable

02

**Preserving the integrity &
competitiveness of the internal market**

03

**Protecting aviation against new
shocks**

Executive Summary

To get through COVID – and to prepare for future crises and shocks – Europe needs a resilient aviation sector that is socially and environmentally sustainable and provides high quality connectivity for its citizens and regions.

The need to preserve aviation as an essential strategic infrastructure serving the public interest should guide Europe's recovery strategy. This requires a holistic approach, including:

1. Socially & environmentally sustainable aviation sector for those who work in it and for the citizens, taxpayers and the wider society:

- » **Social responsibility:** all stakeholders must manage the crisis in a socially responsible manner by (a) retaining staff (incl. using state support) & maintaining skills and crews' employability; (b) managing cuts in jobs & conditions through genuine social dialogue; and (c) eradicating precarious atypical employment (bogus self-employment, broker agency set-ups, Pay-to-Fly etc.).
- » **Environment:** we must take concrete & credible measures and pathways towards decarbonisation of aviation and towards EU climate goals. Sustainable Aviation Fuels – especially electro fuels – to play a key role.
- » **Public interest conditionality:** any public aid and alleviations must come with conditions attached that protect the public interest, incl. strict social & environmental criteria.

2. Single Market free of distortion & a strong global player:

- » **Level playing field:** priority must be given to repairing the pre-existing distortions in the Single Market, created by social engineering, rule shopping and atypical employment by certain players & countries. Law enforcement (incl. posting & temporary agencies), applicability of local law where an Operational Base is set up, and a presumption of direct employment for crew are key measures to be taken.
- » **Strong, truly European global player:** the EU external aviation policy must promote & defend Europe's aviation, more than ever. Further market opening must be suspended, no intra-EU 5th freedom rights must be granted, 3rd country wet-leasing must be exceptional & strictly limited in time; current O&C rules must remain in place & be enforced to prevent 3rd countries from taking over strategic European infrastructure assets.

3. Resilience based on safety, skilled workforce and advance planning:

- » **Aviation safety** must be restored, maintained & increased, by tightened public safety oversight, enhanced safety management by operators and crew fatigue prevention.
- » **Measures to be taken to retain skilled workforce, recency, employability & re-skilling.**
- » **Develop ready-made packages of emergency measures for different crisis scenarios; consider minimum liquidity requirements; focus on what serves the public interest.**

A holistic approach, guided by the public interest: predatory behaviour, whereby some players try to strive at the expense of the others will derail the recovery. Aviation is an 'eco-system' where everybody depends on the health of the others. This includes the aviation professionals who will be asked to deliver a safe & successful recovery. Only if all stakeholders work together will aviation come out of this crisis stronger, more resilient and truly sustainable.

**Aviation is a
strategic
European
infrastructure**



01

So it must be sustainable

1.1. Public interest conditionality

Aviation is a strategic European infrastructure that must be able to serve its original purpose of providing connectivity both for persons and goods. This infrastructure is a public good, and part of the wider economy's backbone. Given the physical footprint and interaction of aviation with everyday life, the industry is tolerated or encouraged because it is in the public interest to do so.

Employing the industry's workers in decent jobs and contributing in taxation and social contributions to public services are also major benefits of the sector in terms of public interest.

When public support is provided to airlines in this crisis, whether directly from taxpayers in financial form, or indirectly through the amendment or waiver of regulatory frameworks that exist to govern aviation's role and responsibilities in society, it is both logical and essential that this support should come with conditions that protect the public interest.

Pilots and crew were willing and even proud to put themselves at risk during the crisis, delivering “home” essential medical and PPE supplies for the fight against COVID, or repatriating citizens stranded by the closure of the borders and flying bans.

The crisis has highlighted the strategic nature of aviation as an essential infrastructure and reinforced the need to support it – not for the sake of it, but because connectivity is essential to our citizens, workers and our economy.

SOLUTIONS

- » During the recovery phase where there is a need for active or passive financial support; this support needs to be made conditional on a number of criteria, including social responsibility toward workers, striving for adequate employment protection, healthy employment conditions, and walking the path to environmental sustainability.
- » These commitments must be concrete, binding, and enforceable, with support withdrawal and sanctions, as necessary.
- » Amendment and alleviation of EU regulations, of operating and of market rules must come with this same conditionality.

1.2. Social sustainability

Social sustainability is not only one of the essential elements of the smart recovery, it is among the founding premises of the European Union. It must be considered as a central pillar when planning the recovery measures for aviation.

Social sustainability is achieved by ensuring that the conditions and treatment of workers, by employers, social systems and labour law is fair, predictable, and balances the interest of both employers and employees.

It is achieved by clear and sufficient labour rights; the presence of labour monitoring, and access in practice to enforcement and redress; the presence of trade unions and social dialogue; and being part of social safety nets.

It is indicated by sufficient levels of labour rights; the presence of health and safety protection in the workplace; and respect of fundamental and human rights.

It is compromised and contra-indicated by the presence of fake, undeclared, or mischaracterised working relationships such as (bogus) self-employment; poor or absent collective representation; difficulty in determining which employment regulations or frameworks apply to a worker; lack of parental and sickness rights; precarious employment relationships; avoidance or minimisation of social contributions;

and arms-length employment relationships, especially where employer directions, applicable rules, or responsibility and accountability lines come from outside the country a worker is based in, or go via or stop with an intermediary (e.g. a broker agency).

The COVID crisis has revealed the effects of precarious atypical employment on aviation workers.

The employees of socially responsible employers are affected by the crisis but enjoy a minimum social protection that pilots on zero hours, broker agency contracts, pay to fly schemes and (bogus) self-employment do not have. Thousands of pilots are unemployed and without social coverage because they have been working for EU airlines through complex social engineering systems that deprive them of social protection, and Member States of their social security and income tax revenues. The rights of these pilots are being ignored: salaries have not been paid, notice periods are not respected, access to collective bargaining are non-existent and the precarious situation deprives those workers of fundamental rights such as the right to family life and access to minimum living standards.

The use of precarious atypical air crew employment forms by certain airlines distorts competition within Europe's aviation market

Furthermore, the use of precarious atypical air crew employment forms by certain airlines distorts competition within Europe's aviation market, providing those airlines an undue competitive edge over socially responsible airlines that employ their crews directly and respect the laws of the country where the crews are based. Only this latter model can be considered sustainable and as being in the wider public interest.

SOLUTIONS

- » **The recovery must be used to strictly limit and ultimately eliminate precarious atypical forms of aircrew employment.**
- » **In the meantime, social risk of atypical forms of employment must be closely monitored and/or swiftly phased out. Aircrews should have local contracts in the place where they are based directly, or temporarily through locally registered agencies. Posting of aircrew should be closely monitored.**
- » **The legal framework of employment status and classification must be clarified to ensure highly mobile workers in aviation can always identify the reality of their situation, that some rules apply to it, and what those rules are. It must not be possible to fall between the cracks of posting rules, agency work rules and normal employment. In commercial air transport direct employment must always be the assumed default relationship (i.e. presumption of direct employment) unless facts on the ground and proven by the employer indicate otherwise.**

- » Policy makers must actively & publicly promote direct employment and privilege the rights and say of those airlines who employ directly their crews.
- » Policy makers must ensure that aviation workers can also access their right to work/life balance, including family friendly policies, background, race and gender diversity, and working time regulations.

1.3. Environmental sustainability

Aviation does not have the choice of ignoring environmental sustainability.

If it is to fulfil its role of serving the public and providing critical infrastructure, aviation must commit to policies and measures that keep it on a path to decarbonisation by 2050.

The EU Green Deal must provide the necessary incentives and investment to permit this, with a mix of scientifically validated policies that can achieve real progress. Measures which simply provide positive PR, or pointlessly 'punish' the sector without driving progress must be avoided.

Without concrete action and a credible pathway to environmental sustainability, the impact of aviation will likely not be tolerated in the public interest, weakening the industry and reducing its scope in the future.

SOLUTIONS

- » Absolute commitments and credibility are required on the part of the whole sector and individual countries.
- » Increase investment on alternatives to fossil fuels / Sustainable Aviation Fuels (SAF).
- » Identify achievable path to decarbonise from now to 2050 and spell out policies and changes to achieve this pathway.
- » Inclusion of aviation with scientifically validated measures, incentives and investment in climate plans and the EU Green Deal.
- » Ensure that the aviation sector's climate action is eligible for funding under the Next Generation EU and the new Multiannual Financial Framework (MFF).

The key to a successful EU aviation market



02

Integrity & competitiveness

2.1. Preventing distortion of the EU aviation market

These distortions are frequently created through social engineering and loopholes, or through the sole application of (non-comprehensive in nature) aviation regulation while avoiding or ignoring other generally applicable EU regulation and social rules.

Without removing these distortions it is not possible to keep the integrity of the single market, or to have real and fair competition between actors in the market. In pushing all airlines and aviation companies closer to the boundary between survival and failure, the COVID crisis has exacerbated this problem – both driving companies towards seeking market advantage by exploiting these distortions, or using the loopholes, and by hitting airlines that do not seek to use such measures harder than those who do.

In pushing all airlines and aviation companies closer to the boundary between survival and failure, the COVID crisis has exacerbated this problem

The loopholes mentioned in the Social Sustainability section above, regarding false or mischaracterised employment status, or applicable regime (e.g. Posting, Temporary Agency work, etc) are also a major part of the current distortions, being more prevalent or overlooked in some states and airlines than others. In driving a temptation for employers to offload the costs and risks of the crisis by either sacking or radically reducing employees' terms and security to preserve company financial performance, the COVID crisis has exacerbated the problem.

In particular the position of some airlines to only consider the Air Services Regulation (1008/2008) when employing crews and ignoring the applicability of obligations that come with establishing an Operational Base in a state, as well as rules on posting and agency work creates competitive distortion. If it were clarified in the Air Services Regulation that the full framework of EU legislation applies at all times, and that additional regulation applies where establishment through an Operational Base occurs and/or where crews have their Home Base, this would put airlines on a more equal footing and help to re-balance the playing field.

SOLUTIONS

- » **Places of Business = Operational Bases:** it must be made clear in the Air Services Regulation that any operational base that is established in a given country, entails legal obligations for the airlines, namely the applicability of all local laws. Better definition of the 'Principal Place of Business' and the recognition of other 'Places of Business' (= other Operational Bases) are both necessary. In order for a Place of Business to be the Principal, it is clear that other/several Places of Business exist in reality, however the latter are neither recognised nor defined under current EU regulations.
- » The Commission, as the Guardian of the Treaties, and the Member States must ensure that EU rules are applied and enforced by all airlines in every country where they have Operational Bases. Cooperation between Member States (labour authorities and aviation authorities alike) must be strengthened and made systematic.
- » Clarification of default expectations as regards the employment status (direct – i.e. a presumption of direct employment), and the applicable regime (whether posted, etc) for highly mobile workers in aviation are urgently needed at EU level.
- » Fake and deliberately mischaracterised forms of employment – such as the vast majority of 'self-employment' – must be treated as the illegality they are and brought to a halt, rather than exported from some states (where they are tolerated) to the rest (where they are illegal) and being allowed to distort competition.

2.2. Ensuring a level playing field between internal market states

Some Member States tolerate or abstain from taking decisive actions against airlines that make use of 'self-employed' aircrew on non-EU contracts through intermediaries based in other EU countries. Some Member States do not apply posting rules or social security regulations to air crew. Some Member States do not grant trade union rights to aircrews based in their country with contracts in other Member States.

The absence of EU policies against mischaracterised forms of employment and against the non-application of posting and social security rules to aircrew creates a strong distortion in the market that needs urgent address.

There are also a number of states, such as Ireland, Poland and the Baltic states, that when regulating air service providers registered in their country, adopt a 'don't look, don't see' approach to the employment practices and compliance of these companies. This is especially problematic when these companies then operate or open Operational Bases in other Member States where the rules are properly applied to locally registered operators. To be clear, today the EU aviation market is anything but a level playing field, almost structurally set up to ensure there is in practice no level playing field between Member States. This drives airline behaviour to seek out the most convenient states (Flags of Convenience, regulatory forum shopping, social dumping), thereby amplifying the problem.

In addition to these divergences in air service and employment regulation, the difference in Member States' social taxation and enforcement is frequently used to gain advantage, with aircrew technically claimed as being under the jurisdiction of the least onerous social regimes. With social safety nets under severe pressure in the COVID crisis and being the last line of defence for many abandoned workers, this social dumping is especially damaging. It risks undermining that safety net for all, just when they need it most.

A similar issue is created by vast differences in the interpretation, application and oversight of aviation safety and operational regulation between the national competent authorities.

As well as competence and resource varying greatly in addition to this, the resource and competency in a few notable states is below the level necessary to fulfil their mandate. Better harmonisation is urgently required, and EASA must be resourced and supported in this.

Some airlines with operational bases and/or air operation certificates (AOC) in different Member States have developed the concept of "group operations" by which aircraft and crews can be interchanged between the different establishments of the group. In some cases, this type of organisation ignores labour EU and national legislation on intra-

group mobility and posting. This type of organisation is often designed to minimise social and taxation costs using “de facto” social and fiscal havens within the EU thanks to loopholes in the system and the laissez-faire policy of the authorities. Unfortunately, EASA is embracing this concept without having studied the possible legal and social consequences.

SOLUTIONS

- » Enforcement action against Member States who do not follow the rules, undermine others, or who do not meet their obligations under the EASA system, is needed.
- » The EU social system needs reinforcement and protection under the strain of the COVID crisis:
 - A pan-European oversight and enforcement initiative to ensure it is properly and fairly contributed to by companies, and available to vulnerable workers such as highly mobile workers in aviation, is needed.
 - In particular it should not be possible to not contribute, or at a lower rate in one state, and then dump the costs of abandoned workers in another that has to pick up the bill.
 - This situation also needs action where migrant workers from the EU in third country areas such as the Gulf have not been part of social systems, but are then returned to the EU, when they are no longer needed abroad, for the EU to deal with.
- » Where one state is willing to tolerate false or mischaracterised employment forms and enforcement action has not resolved this, there must be a requirement to prevent highly mobile workers under this incorrect regime from being exported to other Member States, undermining the rest of the EU.
- » The EU and the Member States should draft guidelines to ensure monitoring and compliance with local legislation in the fields of labour, tax and social security for airline groups with multiple AOC or operational bases in several Member States
- » EASA to refrain from facilitating Group Operations / Crew Interoperability without having carried out a thorough Impact Assessment (especially of social & legal impacts), stakeholder consultation and set up a dedicated rule-making task.

2.3. Full and consistent application of air services regulation, state aid and competition rules within and into the EU aviation market

As highlighted above in 'Preventing distortion of the EU aviation market' there is partial or inconsistent application of the Air Services Regulation within and into the EU aviation market. In particular, a failure to treat Operational Bases in countries other than an airline's home state as establishments under the meaning of the EU Treaties, can be damaging for workers, and regulatory oversight, as previously discussed.

COVID has also brought into focus the current restrictions on state aid, and their need for revision to cope with the necessary support when the industry is in distress.

The crisis has shown that aviation is a critical and strategic European infrastructure, as well as uniquely vulnerable to a pandemic. It is therefore crucial that state aid restrictions are made fit for purpose, including the removal of undue restrictions, the use of conditionality to ensure appropriate behaviour from recipients, and a greater role for Public Service Obligations, especially as COVID has revealed the criticality of the public service provided.

State aid rules and Public Service Obligations rules applicable to the air transport sector during the COVID outbreak should be amended to ensure a socially sustainable recovery. As part of the preconditions for receiving the aid, airlines should present a socially sustainable plan, including a commitment to preserve jobs, the conclusion of an agreement with the social partners at the appropriate level and the termination of atypical employment contracts and social engineering practices.

Finally, EU competition regulation and enforcement has a role to play in ensuring that those companies that do seek unfair advantage at the expense of others are brought back into line.

This kind of unfair advantage can often be hidden and diffuse, such as the social engineering discussed above, or the use of hidden rather than open and structured subsidy – often hidden on a regional, distributed source such as chambers of commerce or tourism boards, or airport by airport level.

Over the past years, certain airlines, mostly in the low-cost sector benefitted from state support in the form of guarantee for cheap loans and thus facilitated access to fresh money. Equally, they have been benefitting from artificially low airport charges and financial support e.g. from local tourism authorities, whilst network carriers have been paying airport charges at usual market rate and are not benefitting from local authorities' subsidies. Such support distorts competition and should be stopped, or at least it should also follow the criteria of social sustainability as described above.

SOLUTIONS

» State aid reform

- State aid should be permissible to support airlines providing critical infrastructure in times of distress. This may mean relaxing restrictions or remedy requirements.
- Conditionality, as described above (incl. social & environmental sustainability, direct employment, absence of social engineering etc.), must be attached to such aid, or to the relaxing of restrictions on providing it.

» Competition oversight of hidden subsidy

- Hidden or diffuse subsidy within the airline and airport sector and/or through local tourism authorities should be investigated and addressed.

2.4. A strong player in a fair and sustainable global market:

The EU External Aviation policy should strive to defend the European interests, values and standards more vigorously during and after the COVID crisis. It should aim at the highest possible safety, social and environmental standards in the industry, through regulatory convergence with third country partners (simple cooperation is not sufficient). EU aviation is under an incredible unprecedented strain. Hence, any action undertaken in the External Aviation field by the Commission and Member States should be solely aimed at helping EU airlines regain competitiveness as quickly as possible. First and foremost, intra-EU 5th freedom traffic rights should no longer be granted to third country operators through Air Transport Agreements (EU and Member State level). EU airlines, in fact, cannot face fierce (and often unfair) competition in the EU internal market while they are busy recovering or even struggling to survive.

Smart recovery implies that the EU remain a strong global player in the future. This requires the continued functioning and presence of a European-based aviation industry, financially healthy that guarantees connectivity for goods, persons and business.

Ownership and Control rules guarantee that in cases of crisis like the one we are living, access to goods and repatriation of EU citizens does not depend on foreign interests.

The tolerance towards foreign wet leasing of very large aircraft evidenced the dependency of the EU cargo sector on this practice. All European countries have experienced the negative effects of depending on third countries to have essential sanitary products. The EU cannot depend on third countries in the future to ensure the connectivity of its citizens and the supply of goods both for import and export.

The commercial component of the leasing provision of Reg. 1008/2008 is being currently applied in isolation, without the correct surrounding EU employment/social regulation which should undoubtedly apply. There is absolutely no clarity concerning in particular

the legal status of the non-EU worker/migrant as well as the labour and social law applicable to these aircrew that are temporarily sent/deployed/posted to an EU State from a third country. In order to avoid abuse and social dumping, a red line between genuine 'third country wet lease' and pure 'outsourcing' must be always drawn and even more importantly in times of crisis. To this purpose, a clear and unambiguous definition of 'exceptional need' must be introduced in EU Regulation.

In fact, if seasonal and technical needs are limited in time by their nature, wet lease that are sought on the 'exceptional need' grounds can in practise last longer than actually needed and become a new way of cutting operational costs. It is no secret that EU countries have some of the highest labour standards and protections, hence costs, in the world and some operators might be tempted to undermine these standards by resorting in a systematic way to third country wet-lease. This is, again, totally against the public interest and only to the benefit of few operators.

Furthermore, under the financial pressures of the COVID crisis, rules on Ownership & Control are under considerable strain with a wish for third country cash to prop up struggling aviation companies in the short term.

It is essential that Ownership and Control rules are applied in practice if the European industry – in state of high distress – is not to be hollowed out and discarded by third country interests. Whilst cash is tempting in the short term, investment amounts near or beyond the present 49% limit have almost universally been part of a medium-term plan to reinforce the position of and direct traffic to third country carriers, before then liquidating the EU carrier, that had been used as a Trojan horse serving foreign interests.

Additionally, whilst Member States are severely restricted in the financial support or investment they are able to offer to their airlines, O&C rules permit comparatively unrestricted input from third country states (albeit within the 49% cap). This is manifestly unreasonable, and greatly undermines the integrity and long-term resilience of the EU aviation market.

SOLUTIONS

- » EU and Member States should suspend and defer further liberalisation of the EU market through Air Transport Agreements (ATAs). ATAs should be preceded by thorough Impact Assessment, similar to the so-called Sustainability Impact Assessments carried out by the EU Commission before negotiating Free Trade and Investment Agreements. These are meant to pre-assess the economic, environmental and social effects of any Agreement.
- » Future Air Transport Agreements should be solely aimed at achieving true 'regulatory convergence' with the third countries (cooperation is not sufficient), especially, but not exclusively, in the social, safety and environmental areas and be limited in terms of market access opening to 3rd and 4th freedom traffic rights only.

- » The EU Commission and Member States should commit to promoting a much more coordinated approach in the field of External Aviation. Member States, for instance, should refrain from granting to third countries through bilateral agreements traffic rights that affect the whole internal market (e.g. Ethiopian Airlines can currently fly between Helsinki and Dublin). When such decisions are to be made, coordination at EU level should be the bare minimum requisite, and a public interest test be carried out.
- » The Commission and the Member states should reconfirm their commitment to current EU rules on airlines' Ownership & Control remaining as they are.
- » The actual position of all airlines' Ownership & Control status must be continually monitored, with a transparent register of Beneficial Ownership, and a register of Effective Control.
- » A mechanism to restore breaches of the rule to a position of compliance is required, either based on sanctions, automatic remedies, or enforcement of operating licence conditions.
- » The EU must restrict / promote support measures in public interest vs unregulated opening for foreign capital/state influence.
- » Third country wet lease should continue to be exceptional, justified by technical and seasonal needs and limited in time as to never create an EU dependency on third country fleets or a new way to cut operational costs by circumventing EU and Member States social legislation, that is, in some EU countries, one of the most protective in the world.

Protecting aviation against new shocks



03

Strengthening the resilience

Resilience of the aviation sector against shocks such as the COVID crisis is not something that can simply be decreed. It is a characteristic that will emerge from systems and measures affecting different aspects of the sector – most of these being described in other sections of this plan. In general however, making different stakeholders more robust, having a balanced share in the aviation value chain, and in a position whereby any given stakeholder is not vulnerable to other stakeholders shoring up their own positions at the expense of one another.

The effects of the crisis had an overwhelming immediate effect on aviation with 90% of planes grounded, and the recovery will last longer than in many other sectors of the economy. This is not unexpected, and can be planned for in the future. There is a need to design systems for both systemic and extraordinary crises to ensure the sustainability of the industry.

The Commission often identifies social dialogue as a key element for sustainable recovery. Yet, some business models, particularly in some Member States and certain (low

cost) segments of the market, refuse all sort of dialogue with unions or consider it as a top-down exercise. Hence, there are many serious issues in a crisis which Social Dialogue simply cannot address, certainly without it being mandatory and solutions requiring mutual agreement.

During the crisis, the EU and the Member States have granted a number of alleviations and exemptions to rules, both economic and technical. However, carried out under considerable time-pressure, this has often been done without coordination, or full consideration of the consequences in an effort to provide quick relief. This leads to local differences in the amount of support available, and some significant unintended consequences. It should be possible to think through all the possible support measures and how they interact and can be coordinated without time pressure, in times of calm, so that well thought through emergency policy packages can be ready and deployed easily in future crisis to better effect.

Any recovery also depends on the ability of the industry to retain workforce and skills. Some EU funds have cushioned against unemployment in the short term, but it necessary to think beyond unemployment benefits and ensure that licenses, type ratings and certificates are current when needed.

It has also become clear that a pandemic and any severe reduction in flying operations bring with them new safety risks, in particular fundamentally changing the nature and assumptions against which existing safety regulation is designed.

Again, how existing safety regulation would work, and how it would need adapting to cover new risks in a variety of shock situations is something that can be considered in advance, and packages of emergency safety regulation can be identified for different scenarios so that they are 'ready to go' if they ever become required.

3.1. Need for Social Dialogue

Aircrew unions and associations have, through social dialogue at company and national level, helped to reduce the social risk of the crisis, and assisted hard pressed companies' survival. Where aircrew, notably due to atypical employment practices, were not protected by any union or association, the social risks exploded, and crews were left in dire straits.

3.2. Appropriate safety regulation that can identify and mitigate new risks when under shock

SOLUTIONS

» Active promotion by Member States of Unions/Associations at national level, notably by requiring agreement with unions in order to benefit from public support measures.

- » **Anti-union behaviour in aviation must be addressed as a systemic threat for the sustainability of the industry. The EU and the Member States must coordinate corrective policies to address this weakness of the system.**
- » **In order to benefit from multi-nationally coordinated or cumulative, or EU level support, whether directly or via regulatory relief, Social Dialogue and mutual agreement should be considered mandatory.**

Authorities and operators have been forced to work under massive time and cost pressure, pushing safety to the limits. The crisis and the recovery are way outside the standards scenarios. Hence, the Commission, EASA & NAAs must redouble their safety oversight, to ensure operators do not allow safety to suffer under financial pressure. Equally, to re-gain the previous safety levels additional efforts, requiring additional investment (which is undoubtedly not for free) will be required.

The Covid-19 crisis had a significant negative impact on all European airline operators. Under severe financial pressure, some will have taken rushed business decisions, possibly creating hazards for the safety of operations. The new, 'post-Covid' operational environment is therefore likely to have exacerbated pre-existing safety hazards and to encompass new hazards induced by the way an operator reacted to the crisis. Examples of these risks and some associated mitigations include:

- A staff reduction may have safety consequences on several organisational areas;
- Negative impact of precarious aircrew employment on safety decision-making;
- Operations can be significantly altered by new procedures, sanitary measures, or unusual restrictions;
- Operators may increasingly operate on short-term contracts requiring flights to unfamiliar destinations;
- Safety short-cuts taken in terms of insufficient / inexistent fatigue safety management when operating under exemptions;
- National Exemptions risk becoming long-term and should end as soon as possible. Operations taking place under such Exemptions must strictly adhere to EASA's FTL Guidelines and revert back to the normal EASA rules as soon as the conditions on the ground change.
- Significant pilot training backlog and cumulative lack of crews' operational experience (due to extended periods of non-flying) risk developing into a major safety risk and needs priority attention by EASA, DG MOVE & NAAs;
- Lack of effective national safety oversight (already partly deficient in pre-COVID period) risks to endure and in some cases will likely get even worse with scarce available resource. DG MOVE & EASA need to put resources into reinforcing safety oversight during recovery.
- Proactive measures to identify hazards will be needed in rapidly changing operating circumstances, since occurrence data will take time to build up. ECA is already engaged with EASA on the RNO TF (Return to Normal Operations Task Force), identifying the hazards stemming from return to operations and in establishing mitigations to reduce the associated risks.

- The systematic and reinforced use of Safety Management Systems by operators, as well as strengthened NAA oversight of their proper implementation will be crucial to ensure ongoing and new hazards & risks are identified, adequately mitigated against and that mitigations are continuously improved.

SOLUTIONS

- » Strengthened safety oversight by NAAs and EASA will be the key. Safety deficiencies might be hard to identify, since they quite often only materialize and become visible when the safety net has broken, e.g. through an incident/accident. Enhanced Safety Management by operators is required too, as well as oversight thereof by the authorities.
- » Designing appropriate philosophy for: rule alleviations; strengthened training; recency requirements in a population short on recent experience.
- » Consideration of effect of reduced fees funded by volume of flying operation for ATM and NCAs/EASA. Is this model sustainable or does it need an emergency bridge.
- » Undertake resilience scenario planning at EASA and coordinated NCA level: What scenarios might emerge, and what packages of thought through emergency measures could be prepared in advance (in particular considering interaction of measures and unintended consequences). Scenarios might include operating through a pandemic, major global financial or economic downturn/disruption significant international armed conflict, geological events, and widespread climatic and weather volatility. General consideration of both severe reductions in flight operations, or a temporary requirement for a surge in flight volumes (either in total or in the event of reduced personnel or aircraft availability) should be undertaken.

3.3. Pre-prepared emergency support measures for industry

Whilst the present crisis and pandemic was not expected, it does encourage the reflection that it need not be something that isn't planned for. It should be possible to consider a range of shock scenarios for the industry (and indeed any other critical infrastructure industries), and design emergency policy packages that could provide appropriate support.

In particular the general scenarios described above for operational and safety regulation could also be considered at the economic level. This may also mean considering what financial health and contingency measures should be held by an airline or aviation company as a minimum, much as is considered in the banking and financial sector.

SOLUTIONS

- » Undertake resilience scenario planning at Commission level. In particular designing 'ready-made' packages of measures and policies for a number of shock scenarios:
 - Pandemic
 - Major global financial/economic downturn/disruption
 - Significant international armed conflict
 - Geological events
 - Increased climatic or weather event volatility.
- » Any package of measures should consider the need to balance risks, liabilities and upsides between different stakeholders and different layers in the aviation value chain.
- » An analysis to determine ideal target, or minimum, levels of cash reserves and liquidity should be considered for airlines to provide resilience against future shocks. The pros and cons of this either becoming guidance to airlines or future binding regulation should be considered.
- » In particular safeguards against one stakeholder enhancing its survivability at the expense of another should be considered.
- » Whilst historically support measures have focused on the individual corporation, packages should focus on ensuring the public interest is protected or enhanced: measures should support workers, customers, the environment, and any other societal needs (such as social support, health and welfare systems), at least as much as corporate interests. Any beneficial or adverse consequences for these public interests should be a major factor when assessing pre-prepared resilience policy packages.

3.4. Supporting and retaining workforce and skills in downturns

A resilient system is one that retains sufficient manpower and skills needed to recover when the crisis is over. Pilots need resources to live, like any other worker, but might be exposed to longer unemployment than other sectors. Long periods of inactivity in a safety critical profession will entail a loss of skills that compromise the future recovery, or introduce new risks into it if external support of the maintenance of skills is not provided.

SOLUTIONS

- » Designing permanent measures to support and retain workforce and skills during downturns providing
- » Specific aviation workers unemployment support available for long periods.
- » Specific support for keeping pilot's license validity, including regular training, proficiency checks and recent take-off and landing experience.
- » Re-training / re-skilling if and when activity resumes at full speed.
- » The Commission should encourage Member States and airlines to use available EU Funds such as CRII Plus and EGF, for ensuring future employability of airline pilots, incl.:
 - Support for pilots and/or their airlines to compensate the costs for simulator training needed to keep licenses currency and for annual medical checks;
 - Support for pilots and/or their airlines to compensate the costs of retraining for new types of aircraft and/or operations;
 - Support for pilots in getting additional education to enhance their possibilities to find alternative jobs within or outside aviation.



ECA

European Cockpit Association