

MISUSE OF SLOTS ENFORCEMENT CODE

ANNUAL REPORT – 2009/10

1. Introduction

The EU Slot Regulations 2004⁽¹⁾ (Article 14.5) requires Member States to ensure that effective, proportionate and dissuasive sanctions or equivalent measures are available to deal with the repeated and intentional slot misuse.

In July 2005 the UK Department for Transport (DfT) consulted with industry stakeholders on the best means of controlling the misuse of slots at the coordinated airports in the UK⁽²⁾.

As a result of this consultation, the DfT concluded that a sanctions scheme, including financial sanctions, was necessary and that ACL as the coordinator at the UK's coordinated airports should administer the scheme.

In April 2006 the DfT published draft 'Misuse of Slots Rules' and 'Procedures and Guidelines', produced jointly by the DfT and ACL, setting out the proposed basis of operation of the scheme. The DfT also published a draft Statutory Instrument to implement the EU Slot Regulations 2004 into UK law. The DfT and ACL held a seminar attended by industry stakeholders to discuss the proposed scheme and invited written submissions.

On 1 January 2007 the Airport Slot Allocation Regulations 2006 (SI 2006 No. 2665 – the 'UK Regulations') came into effect which mandated ACL (the coordinator) to adopt an enforcement code to make provision for the manner in which it would enforce the UK Regulations. ACL published the Misuse of Slots Enforcement Code 2007 (the 'Enforcement Code') taking into account the views expressed by the industry stakeholders in the previous consultations.

In June 2008, after the Enforcement Code had been in operation for 18 months and in the light of experience, ACL proposed a number of clarifications and improvements to the Enforcement Code and consulted the industry. The Enforcement Code was updated on 22 September 2008, taking into account the views expressed by the respondents to the consultation.

⁽¹⁾ Regulation (EC) No 793/2004 amending Council Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports

⁽²⁾ The UK's coordinated airports are Heathrow, Gatwick, Stansted, Manchester and London City.

This report summarises ACL's activities in applying the Enforcement Code during the period April 2009 to March 2010. A copy of the Enforcement Code can be found in the 'Slot Sanctions' area of the ACL website (www.acl-uk.org).

2. Types of Misuse

The Enforcement Code identifies five common types of misuse that are addressed by the UK Regulations:

- Operation of a series of air services at times significantly different from the allocated slots.
- Operation of an ad hoc air services at times significantly different from the allocated slots.
- The use of a slot in a significantly different way from that indicated at the time of allocation where such use causes prejudice to airport or air traffic operations (eg, operating with a larger aircraft than the slot allocated at a terminal constrained airport, operating at night without an allocation of night movements/night quota, or operating with a noisier aircraft than approved by the Coordinator).
- Operation of an air service without an allocated slot.
- The failure to operate a slot allocated by the coordinator without cancelling it in advance, where the non-operation is not the result of factors beyond the air carrier's reasonable control, and thereby causing prejudice to airport or air traffic operations.

Each type of misuse above must be both repeated and intentional before it can be liable for a possible sanction. To be treated as repeated, the misuse should be of the same type at a particular airport.

The Enforcement Code also states that this list is not exhaustive and that there may be other forms of slot misuse covered by UK Regulations and the Enforcement Code, or which become identified over time, and which may also need to be addressed in the future.

3. Sanctions Available

The UK Regulations permit the coordinator to apply a penalty of up to £20,000 for each instance of slot misuse where the misuse is repeated and intentional. The Enforcement Code states that, where a financial penalty is deemed necessary, the minimum value will normally be £1,000 with higher values for multiple infringements or more serious instances of misuse.

The UK Regulations also give the coordinator the power to issue directions for the purpose of securing compliance with allocated slots. Directions may be issued to air carriers, the airport managing body or the air traffic service provider. Air carriers failing to comply with a direction may be subject to a penalty of up to £20,000.

The UK Regulations also permit the coordinator or schedules facilitator to apply a penalty of up to £20,000 for the failure to provide the coordinator or schedules facilitator with necessary information, or knowingly or recklessly providing false information.

4. Funding

It should be noted that the purpose of the Enforcement Code is to achieve compliance with allocated slots and combat intentional misuse, **not** to generate revenue. The costs of administering the scheme are funded initially by the managing bodies of the five coordinated airports. The airports' costs are refunded from any fine revenue received by ACL in proportion to their original contributions. Any surplus revenue (fine revenue in excess of the cost of administering the Enforcement Code) at the end of the year is submitted to HM Treasury and paid into the Consolidated Fund. This ensures the coordinator's financial independence and seeks to avoid incentives to levy financial penalties except to the extent necessary to achieve adherence to the allocated slots.

5. Monitoring Activity

ACL's monitoring processes involve discrepancy checks both in advance of the date of operation (eg, differences between allocated slot times and published times on airline websites) and retrospective analysis of the actual times of operation compared with the allocated slots. This retrospective analysis also identifies any operations without allocated slots.

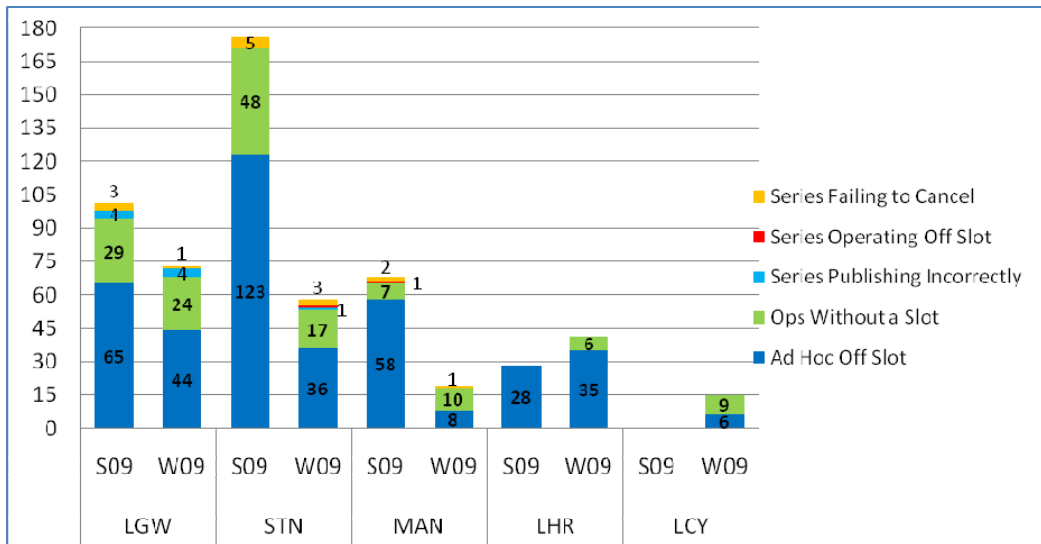
After identifying significant discrepancies, the air carrier concerned is contacted and asked to provide an explanation. Figure 1 shows the seasonal volume of issues investigated across the four coordinated airports during the Summer 2009 scheduling season and five coordinated airports during the Winter 2009/10 scheduling season. London City Airport is only included for Winter 2009/10 as it was designated as 'coordinated' for the first time from the beginning of Winter 2009/10.

Most of the issues relate to ad hoc operations at times different to the slot held.

Issues with series air services tend to arise around the start of each scheduling season, March for a summer season and October for a winter season. However issues with series air services now tend to be very small in number, which is one measure of the success of the Enforcement Code.

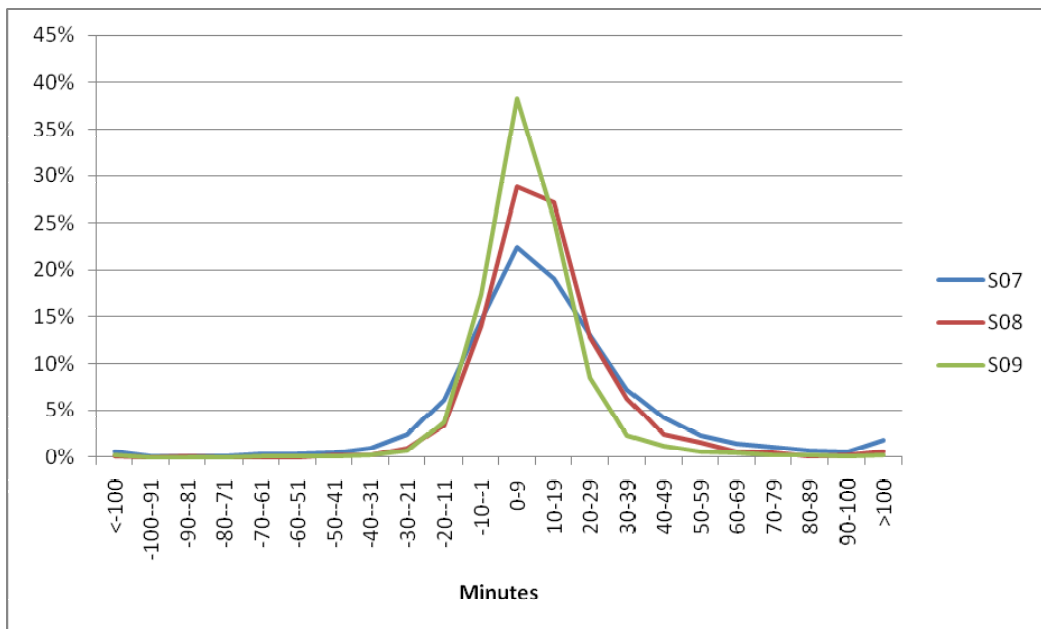
There were a total of 579 issues raised during the 2009/10 year, a decrease of 14.5% on the 2008 calendar year. The majority of the queries were raised during the busier summer period. As with the previous year, the majority of queries related to ad hoc off slot operations.

Figure 1: Sanction Queries raised by Airport



The large number of ad hoc off slot queries raised at Stansted is due to the high volume of General/Business Aviation operations at the airport. Generally, the nature of these flights (infrequent operations at the airport) can lead to a lack of knowledge of airport slot procedures. However, Figure 2 shows the proportion of General/Business Aviation flights operating at or close to the allocated slot time has significantly improved between Summer 2007 and Summer 2009.

Figure 2: Off-Slot Distribution of General/Business Aviation Flights at Stansted Airport



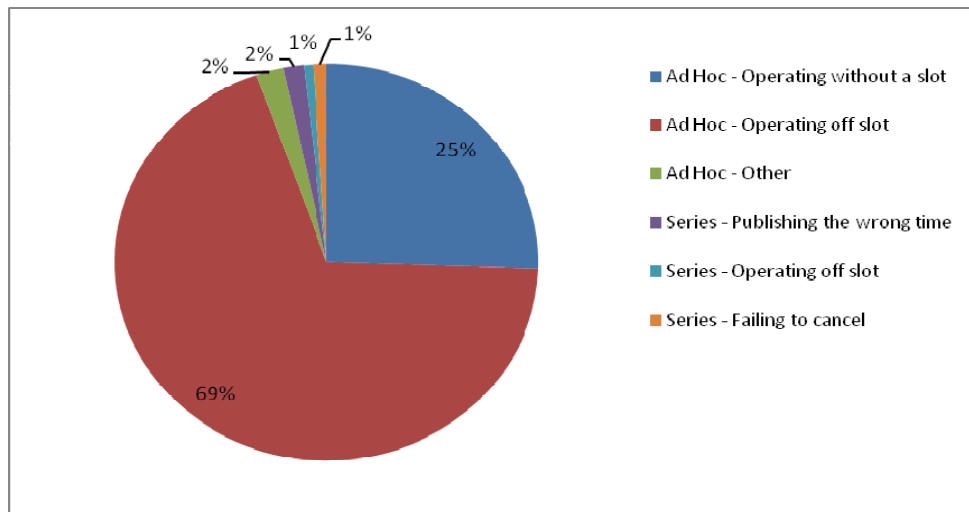
The types of issues investigated are broken down in Figure 3.

Overall, 94% of issues related to ad hoc services – mainly operations without an allocated slot or operations at a time significantly different from the allocated slot.

The issues with series air services related to failing to cancel slots, publishing or operating at the wrong time.

It should be noted that, prior to the introduction of the Enforcement Code, there were no effective sanctions against slot misuse by ad hoc services. The administrative sanctions of the EU Slot Regulations 2004 (eg, Article 14.4) related only to the loss of historic rights for a series of slots, but there are no historic rights associated with ad hoc air services.

Figure 3: Types of Issues Investigated

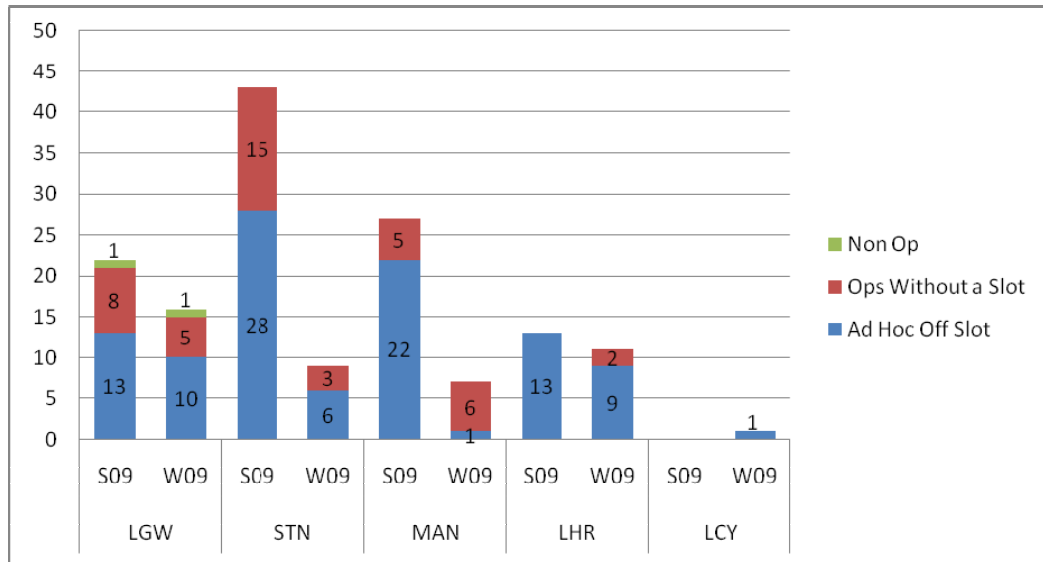


7. Warnings and Sanctions

Following the initial investigation of a potential slot misuse issue, the coordinator must decide whether a breach of the Enforcement Code has occurred. If it is a one-off incident then a warning letter is issued informing the air carrier that a further occurrence of the breach within the next 6 months may result in a financial sanction. If there is a repeated and intentional breach then a financial penalty may be applied.

The number of warnings issued each season by airport during 2009/10 is shown in Figure 4. Of the 578 issues investigated, 149 (26%) were deemed to be a breach of the Enforcement Code.

Figure 4: Warnings Issued by Season/Airport



8. Sanctions Applied

The sanctions applied during 2009/10, which are published on the ACL website, are summarised in the table below. The total value of sanctions applied during 2009/10 was £52,000. There were no sanctions applied for misuse by series air services.

Table 1: Sanctions Applied for Misuse by Ad Hoc Air Services

Air Carrier	Airport / Season	Issue	Sanction
Thomson Airways	Gatwick – S09	Operating at a different time	£10,000
Thomas Cook	Gatwick – S09	Operating at a different time	£8,000
easyJet	Gatwick – S09	Operating at a different time	£3,000
Netjets Europe	Gatwick – S09	Operating at a different time	£1,000
Monarch Airlines	Gatwick – S09	Operating at a different time	£7,000
British Airways	Gatwick – S09	Operating at a different time	£1,000
British Airways	Gatwick – S09	Operating without a slot	£1,000
Thomson Airways	Gatwick – S09	Operating without a slot	£4,000
Thomson Airways	Gatwick – W09	Operating without a slot	£2,000
Monarch Airlines	Manchester – S09	Operating at a different time	£2,000
Thomson Airways	Manchester – S09	Operating at a different time	£3,000
Thomson Airways	Manchester – S09	Operating without a slot	£2,000
Jet 2	Manchester – W09	Operating without a slot	£1,000
Netjets Europe	Heathrow – S09	Operating at a different time	£4,000
bmi	Heathrow – W09	Operating at a different time	£2,000
British Airways	Stansted – W09	Operating without a slot	£1,000

9. Independent Review

No independent reviews of the coordinators decisions were requested during 2009/10.

10. Effectiveness of the Enforcement Code

It is difficult to accurately measure the overall effect of the Enforcement Code on slot adherence. This is particularly true for operations at times different from the allocated slot time because there are many valid operational reasons why air services do not operate as scheduled. These punctuality issues tend to obscure the number of air services that may be *intentionally* operating at a different time.

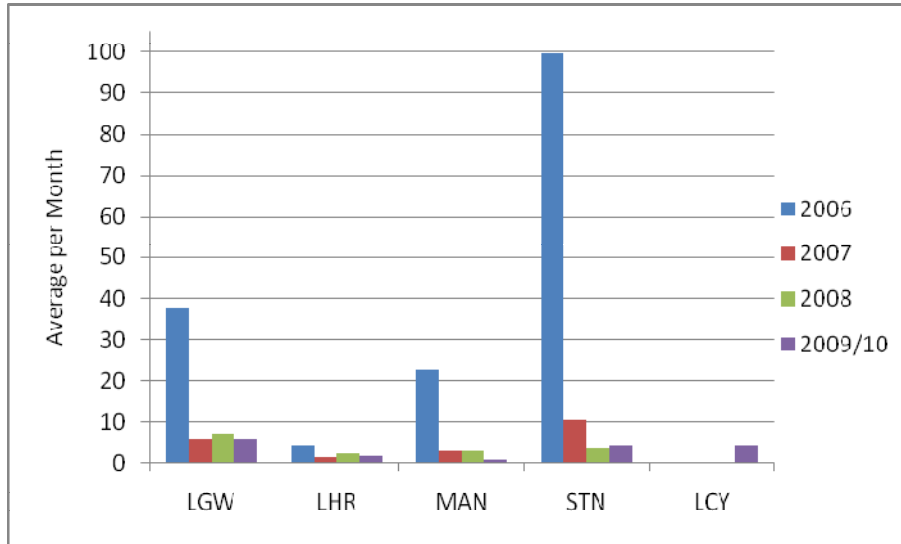
A measure of the effectiveness of the Enforcement Code on slot adherence is the reduction in the number of operations without allocated slots (Figure 5), which can be more clearly identified than time discrepancies. In the first year of the scheme there was a dramatic improvement in the number of operations without allocated slots (87% reduction overall). This performance has largely been maintained during 2009/10. There was a slight increase due to bad weather during Winter 2009/10, but these instances were not considered breaches of the Enforcement Code due to the widespread operational disruption experienced.

Evidence that this improvement is attributable to the Enforcement Code is gained by contrasting the performance of UK coordinated airports with Dublin Airport (there is no enforcement code in effect in the Republic of Ireland).

Dublin Airport is a good comparator as it is similar to Stansted or Manchester airports in terms of overall size and the degree of slot scarcity. Many of the Dublin air carriers also have large UK operations. ACL's management of the Dublin slot coordination process is the same as at the five coordinated airports in the UK.

During 2009/10 the average number of operations without slots at Dublin Airport was 56 per month, compared with 1-6 per month at UK coordinated airports.

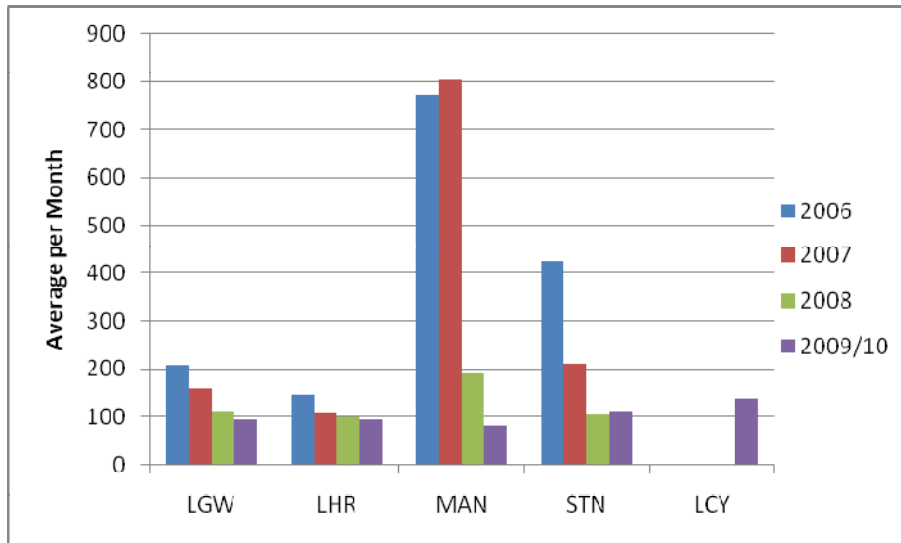
Figure 5: Number of Operations without Slots Allocated
(London City Airport data only since the Winter 2009/10 season)



A new form of misuse was added to the Enforcement Code in September 2008, following consultation with interested parties - the failure to operate a slot allocated by the coordinator without cancelling it in advance, where the non-operation is the result of factors within the air carrier's reasonable control.

As a result, the number of slots held that subsequently did not operate reduced at all UK coordinated airports season on season. (Figure 6)

Figure 6: Number of Slots Not Operated without Cancelling in Advance
(London City Airport only since the Winter 2009/10 season)



13. Conclusion

The continued application of the Enforcement Code has led to significant changes in the behaviour of air carriers. The result is greater compliance with allocated slot times, a significant reduction in the number of operations without slots, and improvements in the cancelling of slots in advance for flights that will not operate, allowing these slots to be 're-cycled'.

ACL has maintained the level of improvement seen in the first two years of the Enforcement Code and, where possible, sought to reduce misuse further.

These changes in behaviour have been achieved by applying a relatively small number (15) of financial penalties, a similar volume to the thirteen issued in the previous period.

It is gratifying to ACL that, despite the number of investigations and warnings issued to air carriers during 2009/10, the relationships between ACL and the air carriers remains positive.

A copy of this report is available in the 'Slot Sanctions' area of the ACL web site (www.acl-uk.org).