

MISUSE OF SLOTS ENFORCEMENT CODE

ANNUAL REPORT – 2010/11

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 and June 2010 the Enforcement Code was reviewed. 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 then updated on both 22 September 2008 and 17 September 2010, taking into account the views expressed by the respondents to the consultation. This report summarises ACL's activities in applying the Enforcement Code during

⁽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.

the period April 2010 to March 2011. 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 service 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 within the last six months.

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

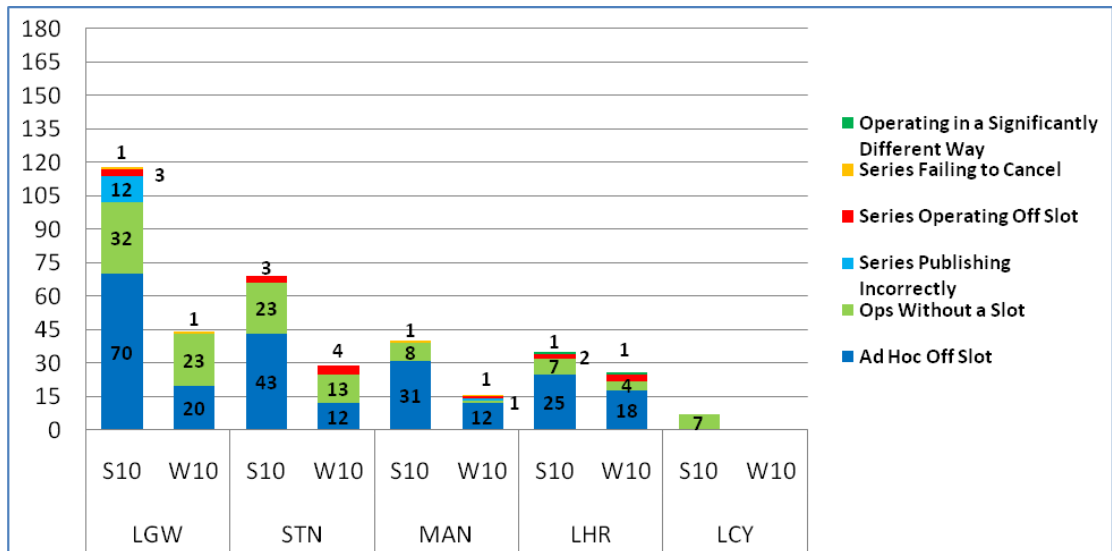
ACL's monitoring processes involve discrepancy checks both in advance of the date of operation (eg, differences between allocated slot times and published times on airline websites) and retrospective analysis of the actual times of operation compared with the allocated slots. This retrospective analysis 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 five coordinated airports during the Summer 2010 and Winter 2010/11 scheduling season. General slot monitoring queries are not recorded under these figures, only issues relating to possible intentional misuse.

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 404 issues raised during the 2010/11 year, a decrease of 30% on the 2009/10 year. The reduction can be partly attributed to the ash cloud during Summer 2010 along with numerous ATC strikes across Europe at the end of the season and the widespread disruption caused by snow during Winter 2010/11. Once again 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



During S10 and W10 there were issues with the actual data received from London City, causing the number of queries to be lower than expected. This has now been resolved.

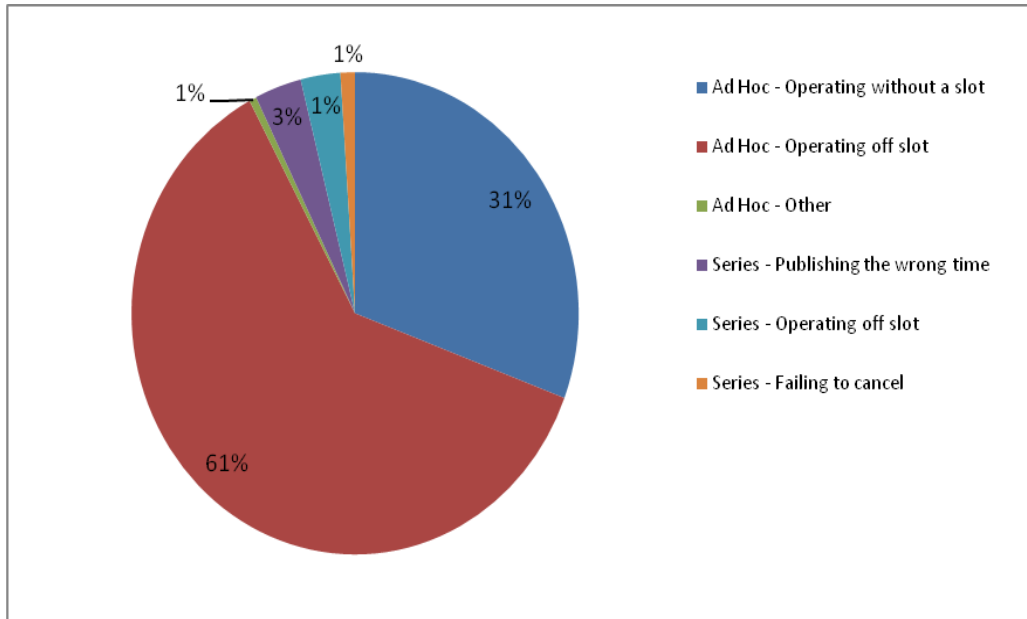
The types of issues investigated are broken down in Figure 2.

Overall, 92% 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 2: Types of Issues Investigated

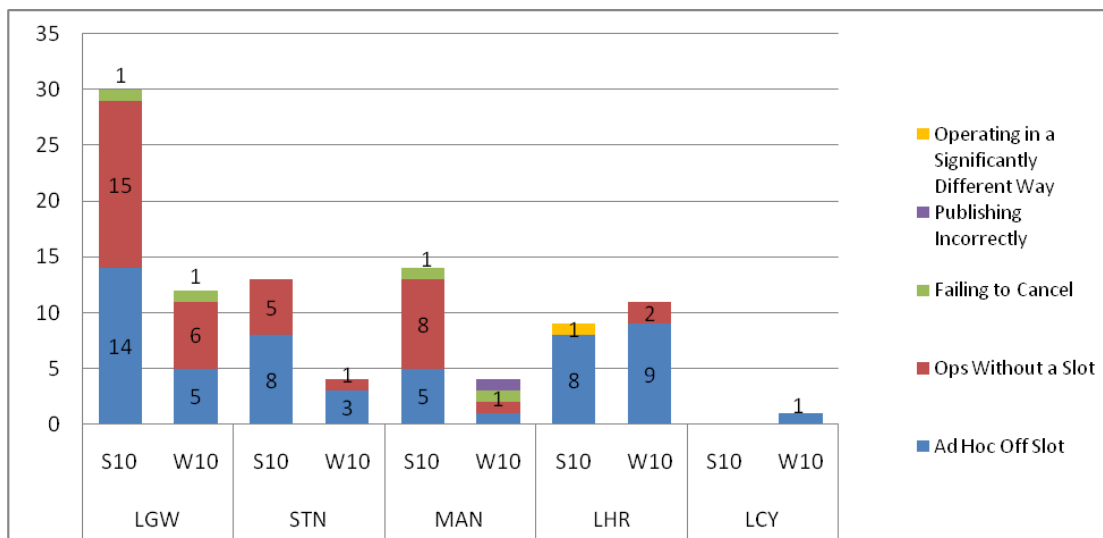


7. Warnings and Sanctions

Following the initial investigation of a potential slot misuse, 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 2010/11 is shown in Figure 3. Of the 404 issues investigated, 98 (24%) were deemed to be a breach of the Enforcement Code.

Figure 3: Warnings Issued by Airport/Season



8. Sanctions Applied

The sanctions applied during 2010/11, which are published on the ACL website, are summarised in the table below. The total value of sanctions applied during 2010/11 was £29,000.

Table 1a: Sanctions Applied for Misuse by Series Air Services

Air Carrier	Airport / Season	Issue	Sanction
bmi	Heathrow – S10	Operating at a different time	£7,000

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

Air Carrier	Airport / Season	Issue	Sanction
Monarch Airlines	Gatwick – S10	Operating at a different time	£3,000
Thomas Cook Airlines	Gatwick – S10	Operating at a different time	£4,000
British Airways	Gatwick – S10	Operating without a slot	£2,000
Monarch Airlines	Gatwick – S10	Operating without a slot	£2,000
bmi	Manchester – W10	Operating at a different time	£1,000
British Airways	Heathrow – S10	Operating at a different time	£8,000
British Airways	Stansted – S10	Operating without a slot	£2,000

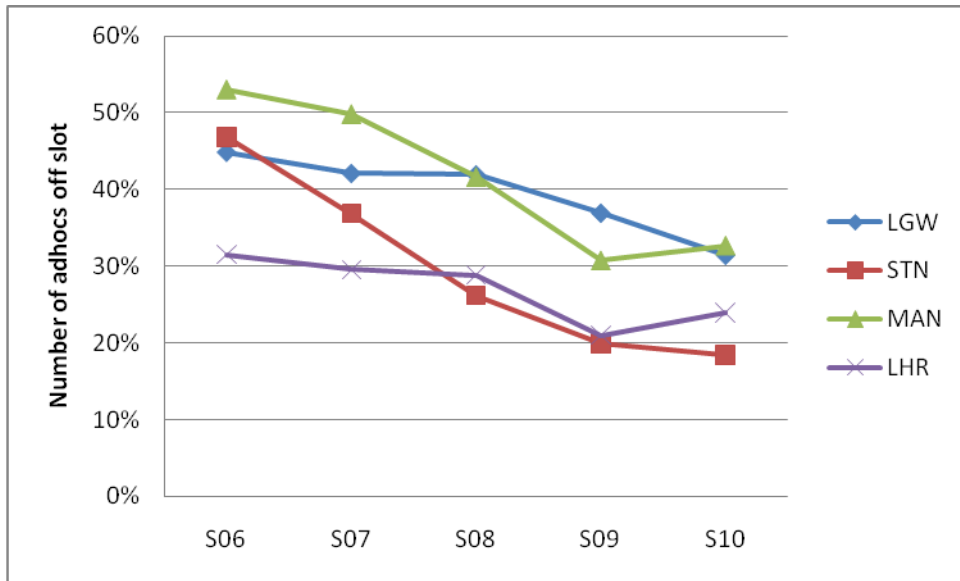
9. Independent Review

No independent reviews of the coordinators decisions were requested during 2010/11.

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. However Figure 4 shows there has been a general improvement in the number of ad hoc movements that trigger a query. The percentage shown is measured against the total number of ad hoc movements for that season, taking into account the recent decline in traffic.

Figure 4: Number of ad hoc flights triggering a query against total ad hoc movements for the season, as a percentage



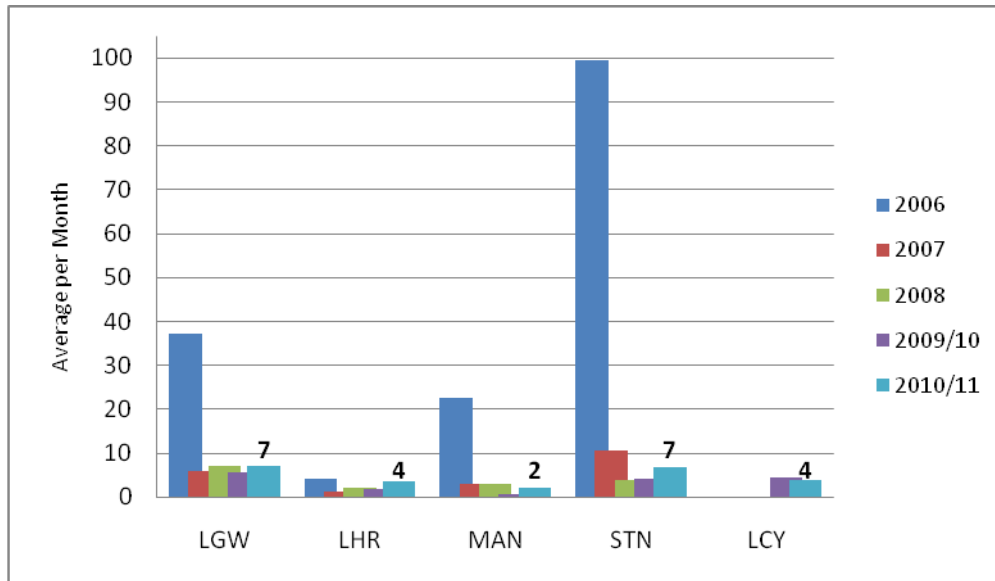
A good measure of the effectiveness of the Enforcement Code on slot adherence is the reduction in the number of operations without allocated slots (Figure 5), which can be more clearly identified than time discrepancies. In the first year of the scheme there was a dramatic improvement in the number of operations without allocated slots (87% reduction overall). This performance has largely been maintained during 2010/11. There was a slight increase due to the volcanic ash during Summer 2010 and bad weather during Winter 2010/11, 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.

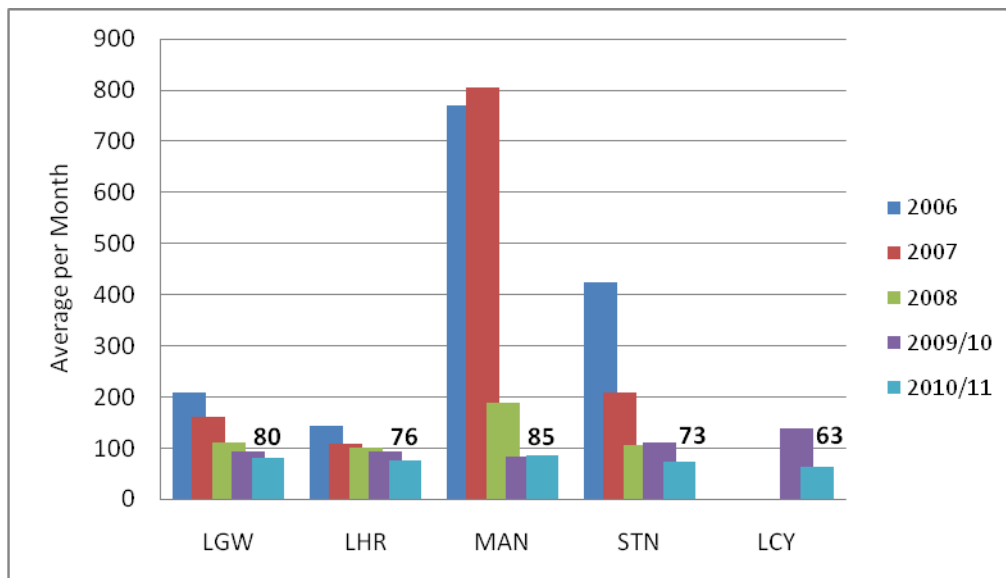
During 2010/11 the average number of operations without slots at Dublin Airport was 41 per month, compared with 2-7 per month at UK coordinated airports.

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



The number of slots operators fail to cancel has also continued to decline with all five airports now averaging 63-85 per month, as seen in Figure 6.

Figure 6: Number of Slots Not Operated without Cancelling in Advance
(London City Airport only since the Winter 2010/11 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'. Primarily the reduction of queries and therefore warnings/fines has been caused by a large amount of widespread disruption seen across the industry in Summer 2010 and Winter 2010/11. However the decline may also be attributed to air carriers being more aware of the need for slot compliance and as a result putting further processes in place to avoid slot misuse.

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

These changes in behaviour have been achieved by applying eight financial penalties, a smaller volume to the fifteen issued in the previous period.

It is gratifying to ACL that, despite the number of investigations and warnings issued to air carriers during 2010/11, 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).