

# MISUSE OF SLOTS ENFORCEMENT CODE

## ANNUAL REPORT – 2017/18

### 1. Introduction

The EU Slot Regulations 2004<sup>(1)</sup> (Article 14.5) requires Member States to ensure that effective, proportionate and dissuasive sanctions or equivalent measures are available to deal with 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<sup>(2)</sup>.

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.

The Enforcement Code was updated, following consultation with the Industry in 2008, 2010, 2011 (for the 2012 London Olympics) 2013 and 2017. In light of experience, ACL proposed and consulted on a number of clarifications and improvements to the Enforcement Code and consulted the industry.

This report summarises ACL's activities in applying the Enforcement Code during the period April 2017 to March 2018. A copy of the Enforcement Code can be found in the 'Slot Sanctions' area of the ACL website ([www.acl-uk.org](http://www.acl-uk.org)).

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

<sup>(2)</sup> The UK's coordinated airports are Heathrow, Gatwick, Stansted, Manchester, London City, Birmingham and London Luton.

## 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 (as defined in the Enforcement Code) before it can be liable for a possible sanction.

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, 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 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

The purpose of the Enforcement Code is to achieve compliance with allocated slots and combat misuse, not to generate revenue. The costs of administering the scheme are funded initially by the managing bodies of the UK coordinated airports (Heathrow, Gatwick, Stansted, London City, London Luton, Birmingham and Manchester airports). The airports' funding is 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 may be submitted to HM Treasury and paid into the Consolidated Fund.

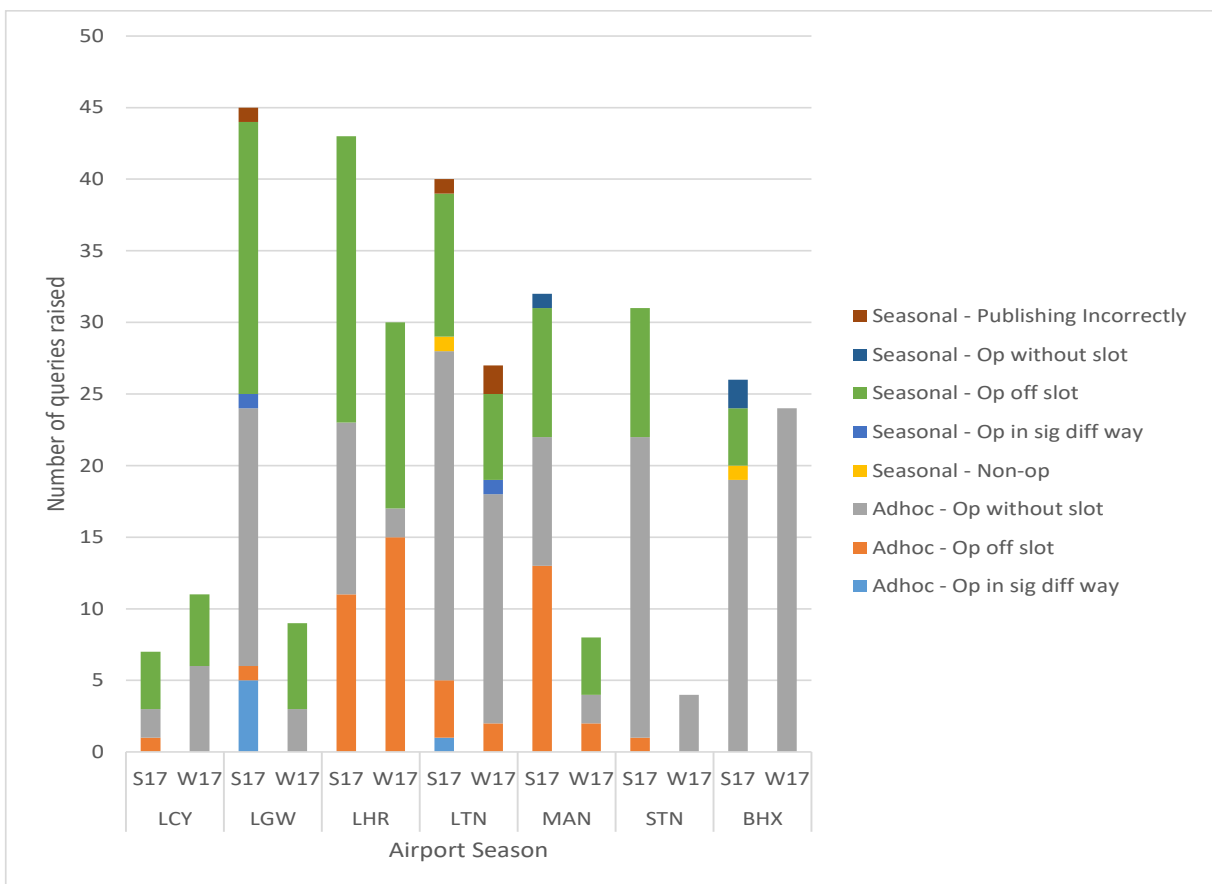
## 5. Monitoring Activity

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 coordinated airports during the Summer 2017 and Winter 2017/18 scheduling season.

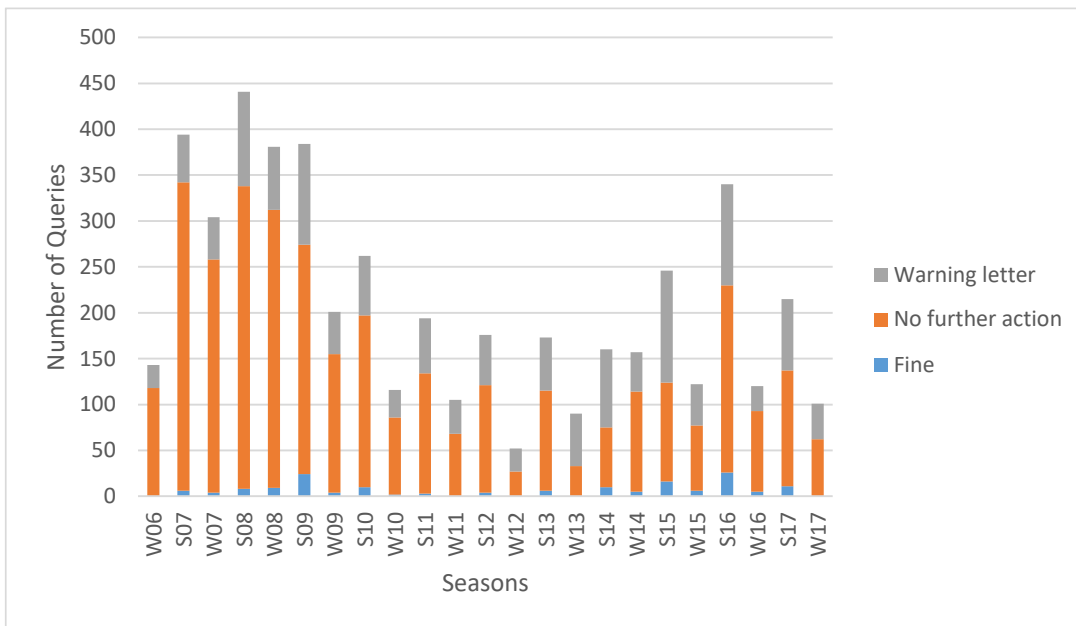
Slot monitoring issues related to a series of slots tend to arise around the start of each scheduling season, i.e., in March for a summer season and October for a winter season.

Figure 1: Sanction Queries raised by Airport



There were a total of 337 queries raised during the 2017/18 year. The queries raised between the Summer and Winter Season were split 66.5% Summer, 33.5% Winter compared to the previous period of 71.9% Summer 2016 and 28.1% Winter 2016/17. As with the previous year, the majority of queries related to ad hoc off slot operations. Figure 2, demonstrates the increase in the number of queries sent over S15, and S16.

Figure 2: Volume of queries to warnings/sanctions

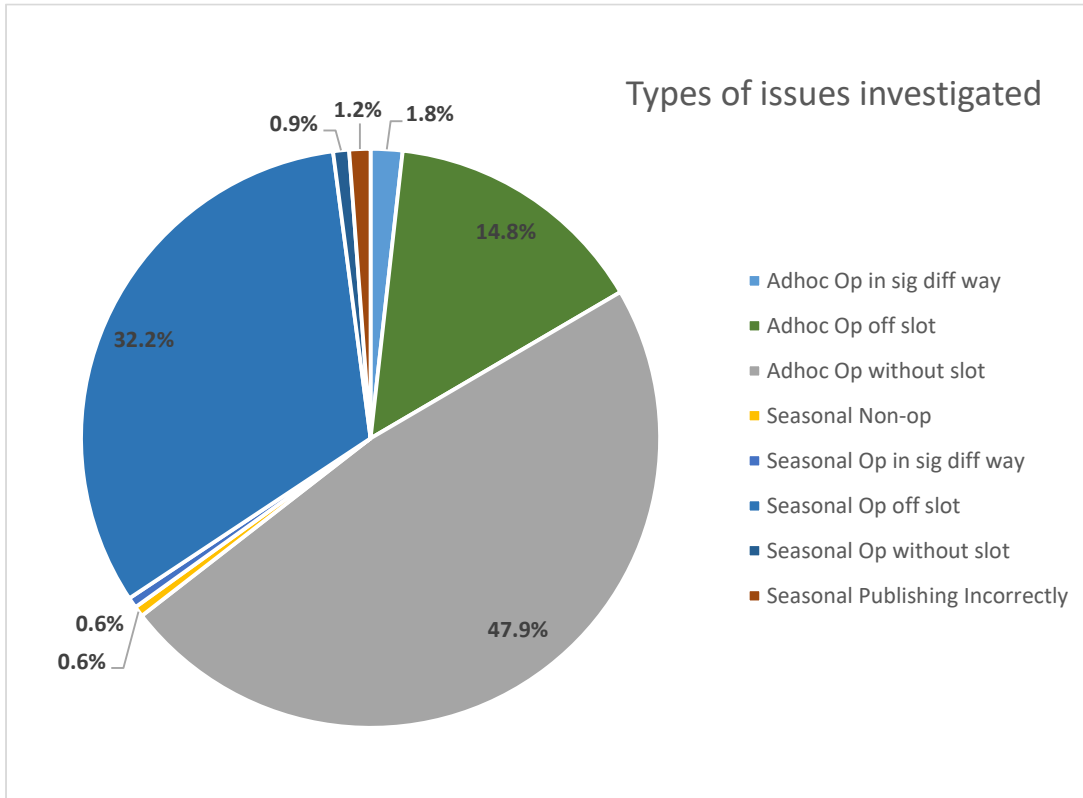


The types of issues investigated are broken down in Figure 3.

Overall, 64.5% of queries related to ad hoc services – mainly operations without an allocated slot or operations at a time significantly different from the allocated slot. Seasonal queries related to Airlines off slot operations, operations without an allocated slot, or operating in a significantly different way to the slot allocated.

Over the past few seasons the balance of ad hoc queries to seasonal queries has shifted, in a great part due to the decreasing On-Time Performance of a number of Airlines, which in turn has impacted on the general performance of the Airports they service.

Figure 3: Types of Issues Investigated



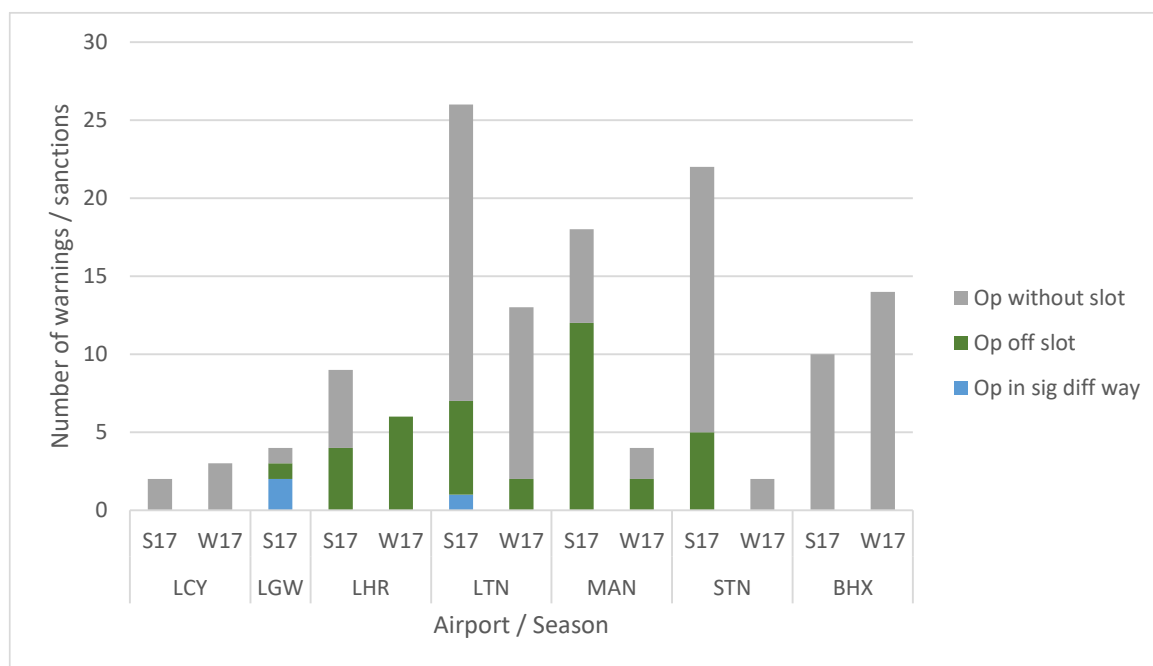
## 6. Warnings and Sanctions

Following the initial investigation of a potential slot misuse, the coordinator must decide whether a breach of the UK Regulation 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, or a warning sent (depending on the individual circumstances).

The number of warnings issued each season by airports during 2017/18 is shown in Figure 4. Of the 337 issues investigated, 133 (39.3%) were deemed to be a breach of the UK Regulation, up on the percentage in the previous period (2016/17), of 34.1%.

In many cases, corrective measures, including rescheduling can be implemented. ACL will then continue to monitor the Airline, and where improvement in OTP is observed, no further action will be taken.

Figure 4: Warnings/Sanctions Issued by Airport/Season



## 6. Sanctions Applied

The sanctions applied during 2017/18, which are published on the ACL website, are summarised in the table below. The total amount of sanctions applied during 2017/18 was £974,000.

Air Carrier	Airport	Season	Issue	Sanction
BA CityFlyer	Stansted	S17	Operations significantly off slot	£30,000
easyJet	Stansted	S17	Operations significantly off slot	£40,000
easyJet	Luton	S17	Operations significantly off slot	£130,000
easyJet	Stansted	S17	Operations significantly off slot	£140,000
easyJet	Gatwick	S17	Operations significantly off slot	£400,000
Medview	Gatwick	S17	Operations Significantly off slot / Operations in a significantly different way	£64,000
Norwegian Air International	Gatwick	S17	Operations significantly off slot	£112,000
Ryanair	Luton	S17	Operations significantly off slot	£10,000
Ukraine International	Gatwick	S17	Operations in a significantly different way	£48,000

## 8. Independent Review

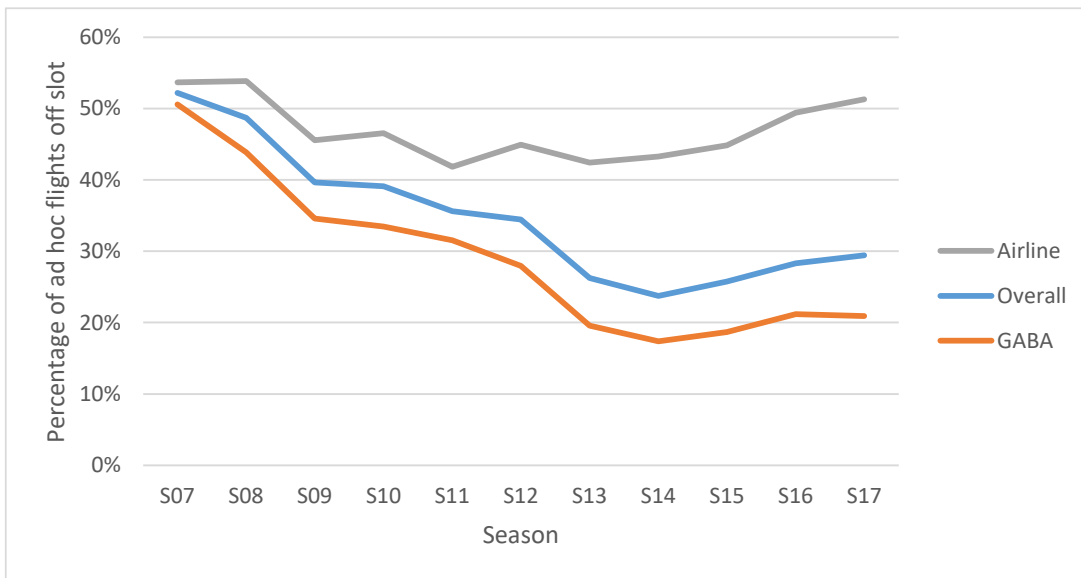
Under section 14 of the Enforcement Code, Air Carriers can request an Independent Review of ACLs decision to impose a penalty. Two Independent Reviewer's have been appointed by ACL for this purpose, following consultation with Industry stakeholders, and appointment approval by the Secretary of State.

For the reporting period 2017/18, one Independent Review was called, and is still in progress.

**9. Effectiveness of the Enforcement Code**

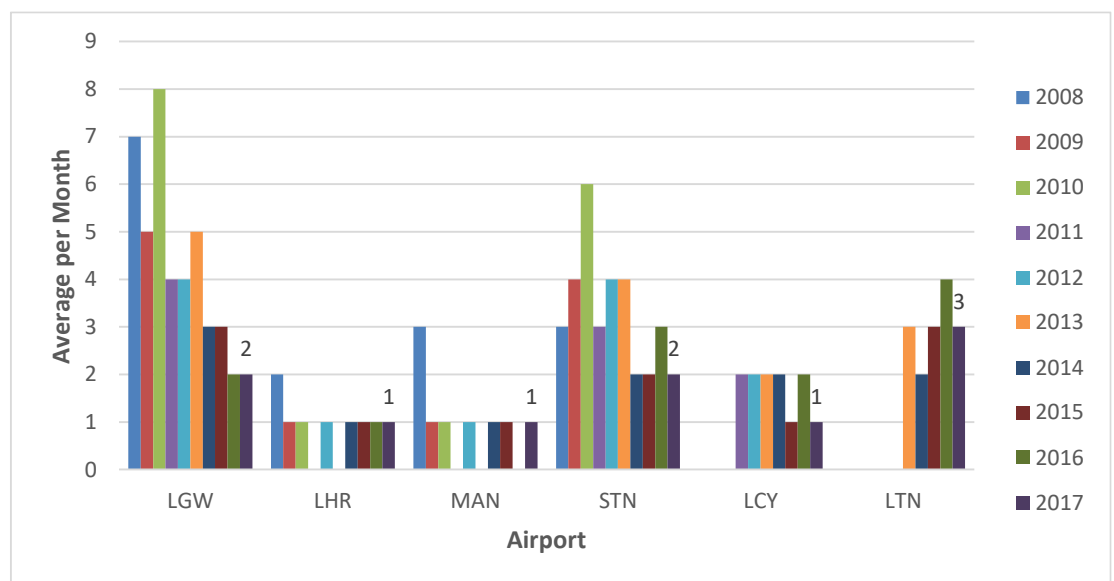
It is difficult to accurately measure the overall effect of the Enforcement Code on slot adherence. Since the introduction of the Enforcement Code in 2007 the trend of ad hoc flights triggering a query for off slot operations has fallen overall since the inception of the sanctions scheme in Summer 2007. However Figure 5 shows there has been an increase in S16, which has continued into S17. Further analysis shows that when sub-divided into GABA (General Aviation / Business Aviation) and Airline flights, the GABA operations have significantly improved since the inception.

Figure 5: Percentage of Ad Hoc Operations Triggering a Query for Off Slot Operations



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 6), 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 (85.5% reduction overall). This performance although greatly improved since the inception of the Enforcement Code has recently deteriorated. One explanation, as previously stated, may be the termination of the use of the Airport Slot ID. Such an explanation though would only be attributable to GABA operations. When all the operations without a slot are examined for Summer 2017, 94 in total across six UK coordinated airports (excluding BHX), only 18 were GABA, and of those 13 were at Luton alone. The remaining 76 no slotted flights (around 80%) were Airline related, either positioning flights, missing dates .i.e. seasonal flights missing dates at the start of the season, or as a result of cancellations, that then proceeded to operate.

Figure 6: Number of Operations without Slots Allocated  
 (London City Airport data only since the Winter 2010/11 season – London Luton data only since the Summer 2013 season. Summer 2017 was BHX's first season at L3, and was allowed to bed in, hence it does not appear in these figures)



If it is warranted (on a case by case basis), ACL will, having reviewed responses from the operator, look to be pragmatic in either the education of the slot allocation process or the management of an operators slots through OCS (Online Coordination System).

Summer 2017 saw a continued deterioration in OTP for a number of Airlines, and in some cases this did impact the overall performance of the Airports they serviced.

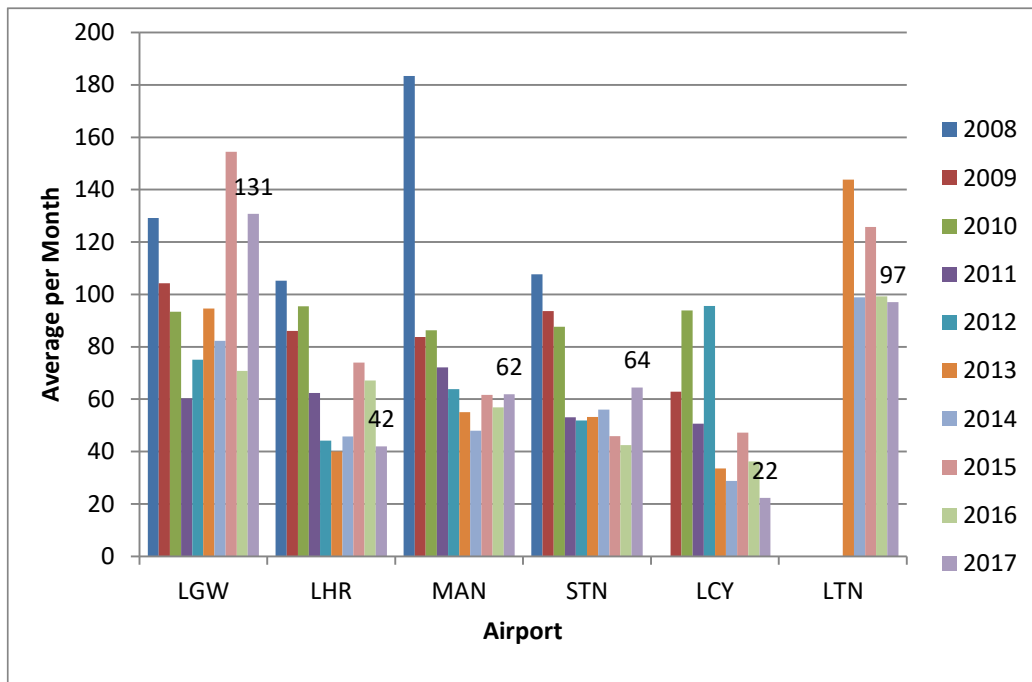
This triggered ACL to write more seasonal queries than in previous years, and where justified sanctions were imposed, between £1,000 to £20,000 per operation. In applying any sanction (per operation), the penalty is set with the aim of it being effective, dissuasive and proportionate. Where further misuse takes place, under the Enforcement Code, sanctions can be increased as it may be seen that the previous sanction was neither, effective or dissuasive, and only a larger sanction may have the desired effect.



The full effect of applying any sanction for seasonal misuse, and any corrective action implemented by an operator, may only be seen in the preceeding equivalent season .i.e. S16 to S17. However, as stated previously, continued misuse from one season to the next, may well result in the need to reach a level of sanction (per operation) that does meet the criteria (for the operator concerned) that is effective, dissuasive and proportionate.

The number of slots operators fail to cancel has also continued to decline with all seven airports now averaging (2017) 22 - 131 per month, as seen in Figure 7. The primary driver of non-operations at Gatwick for 2017 was easyJets non-cancellation of scheduled services, accounting for 419 none operated slots of the 1569 recorded, or 26.7%.

*Figure 7: Number of Slots Not Operated without Cancelling in Advance (London City Airport only since the Winter 2010/11 season – London Luton data only since the Summer 2013 season, Summer 2017 was BHX's first season at L3, and was allowed to bed in, hence it does not appear in these figures)*



## 11. Conclusion

The effectiveness of the Enforcement Code, and its implementation to give effect to Article 14.5 of the Council Regulation is regularly reviewed.

Although certain indicators like the number of none ops is still in decline (overall), and the number of no slots has stabilised at a relatively low figure, the number of ad hocs deemed significantly off slot has increased for the consecutive Summer period.

This, coupled with the continued poor OTP for a number of Airlines in S17 and possibly the Airports they service continues to be a test of the Enforcement Code, as traffic volume picks up. Often though the success of any sanctions applied in one season may only be seen in the preceeding season, when the full effect of corrective measures implemented by the Airline take effect, especially in respect of significant off slot operations.

A copy of this report is available in the 'Slot Sanctions' area of the ACL website ([www.acl-uk.org](http://www.acl-uk.org)).