

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

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Notice and Request for Comments)	
)	Docket FAA-2021-0067
HIGH DENSITY)	
TRAFFIC AIRPORTS; SLOT)	
ALLOCATION AND)	
TRANSFER METHODS)	
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COMMENTS OF EASTERN AIRLINES, LLC

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Eastern Airlines, LLC (“Eastern”) submits these comments in response to the above Notice and Request for Comments, Docket FAA-2021-0067, published at 86 Fed. Reg. 14515 (March 16, 2021).

Eastern supports collection of this information and provides its recommendations to maximize the public benefit including: (1) collecting information about the size of aircraft used in each slot; (2) collecting additional information on slot trades and transfers including consideration provided; (3) publishing slot administration reports in a machine-readable format; and (4) harmonizing slot administration data collection and reporting on a bi-monthly basis.

Information on Aircraft Size Should Be Collected Along With Slot Usage

The FAA should collect aircraft size information from airlines as part of the slot usage information collection process. As the Department of Transportation’s former General Counsel once noted, “one of the best-known problems with slots is that they encourage airlines to ‘babysit’ slots, i.e., underutilize the slots by flying multiple small aircraft into an airport to

maximize the number of slots an airline can occupy at the lowest possible cost.” *Hearing on Airline Scheduling Practices and Airspace Design Before the Subcomm. on Transportation, Housing, and Urban Development and Related Agencies of the S. Comm. on Appropriations* (Apr. 25, 2008) (Statement of the Honorable D.J. Gribbin, General Counsel, U.S. Dep’t of Transport.). GAO supported this assertion through statistical analysis in its report titled “Slot Controlled Airports: FAA’s Rules Could be Improved to Enhance Competition and Use of Available Capacity.” GAO-12-902 (Sept. 2012) (indicating “that the proportion of flights using small aircraft is significantly greater at the slot-controlled airports than at other large hub airports that are not slot-controlled”).

Collecting aircraft size information may help resolve concerns that current rules for slot-constrained airports “inadvertently encourage high emissions and discourage efficiency.” Annie Petsonk et. al, “Aviation on the Cusp: From COVID-19 to the Climate Crisis,” (Dec. 8, 2020), <http://blogs.edf.org/climate411/2020/12/08/aviation-on-the-cusp-from-covid-19-to-the-climate-crisis/> Eastern encourages better data collection in support of better environmental regulations.

Requiring airlines to provide the size of aircraft used for each slot as part of the information collection process supports direct analysis of how airlines hoard slots. Disclosure of this information would allow for data-driven policymaking that would be consistent with both the public interest and the FAA use of big data as a one of the four themes of its strategy. Steve Dickson, Administrator of the FAA, “Safety Through Integrity, Innovation and People” at the Washington Aero Club (Nov. 12, 2019).

FAA Should Collect Data on Slot Transfers Including Payments, Compensation, and Other Benefits Exchanged

In addition to how the FAA should collect data on how slots are used, it should collect data on how slots are traded. The FAA currently:

[M]aintains a list with an informal compilation of transfers of slots other than even, or one-for-one, slot trades at the same airport and excluding transfers between marketing carriers and the carriers operating flights on behalf of the marketing carrier. While the FAA considers the uneven slot transfers more likely than even trades to involve some form of consideration, the FAA has no information on consideration provided, if any, for slot transfers.

FAA, Slot Administration – Data, (April 28, 2021),

https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/perf_analysis/slot_administration/data/. Eastern supports the FAA’s recording of slot transfers, and believes that this can be improved through additional data collection. The FAA requires carriers to notify it of “Written consent and requests for confirmation of slot transfers” at DCA, LGA, and JFK. *See* 86 Fed. Reg. 14515. This information collection would be improved through collecting consideration given for uneven slot transfers because “Slots do not represent a property right but represent an operating privilege subject to absolute FAA control.” 14 CFR § 93.223(a). The FAA and the traveling public should know how these operating privileges are traded by airlines for private gain, which would to support data-driven policymaking in the public interest.

Slot Administration Reports Should Be Published in Machine-Readable Formats

The FAA should publish slot administration data in machine-readable format to allow the public to analyze the data and comply with disclosure obligations under the Freedom of Information Act (FOIA). Currently, FAA publishes slot administration data in Portable Document Format (PDF) with poor-quality internal document formatting that does not allow the

public to easily convert the file into a machine-readable format so as to evaluate the data. FAA, Slot Administration – Data, (April 28, 2021).

The Details Reports PDFs are a printout of a query into the weekly slot schedule holdings or operations in a given season. The Totals Report PDF provides a table with total slot holdings, while the Uneven Transfer Report PDF is a dense table of slot transfers. All of these reports are minimally formatted and require significant time and resources to convert into an accessible format for data analysis.¹

Based on the header and footer information contained on the PDF reports, it appears that the slot data is being exported from a Microsoft Visual Studio application (or a similar application) should allow exporting to machine-readable formats. FOIA already requires the FAA to “make reasonable efforts to maintain its record in forms or formats that are reproducible” in any form or format requested, such as Comma-Separated Value (CSV). 5 U.S.C. § 552(a)(3)(B). Further a recent GAO report highlighted that the FAA did not appear to be meeting its proactive information disclosure requirements under FOIA. To the extent that the FAA slot administration reports have previously been requested in a machine-readable format, the FAA should evaluate whether “because of the nature of their subject matter, ...[the reports] have become or are likely to become the subject of subsequent requests for substantially the same records” or “have been requested 3 or more times,” which would require FAA to proactively disclose the records under FOIA. *Id.* § 552(a)(2)(D).

¹ In comparison, most of the statistical information provided by another Department of Transportation Bureau, the Bureau of Transportation Statistics, is provided in machine-readable format. *See generally Data Library: Aviation*, Bur. of Transport. Stats., https://transtats.bts.gov/databases.asp?Z1qr_VQ=E&Z1qr_Qr5p=N8vn6v10&f7owrp6_VQF=D.

Information Collection and Slot Administration Report Publication Should Occur Bi-Monthly

The FAA should collect slot utilization data on a bi-monthly basis across all covered airports and publish slot administration reports on the same bi-monthly basis. Currently, the FAA collects bimonthly information on DCA and LGA slot usage, while JFK provides this information on a seasonal basis. *See* 86 Fed. Reg. 14515. Although the FAA collects information on slot usage for DCA and LGA on a bimonthly basis, it only provides this information on a semi-annual basis on its website. FAA should harmonize the collection and publication of this information by requiring that it be provided on a bi-monthly basis across all of these airports and published along similar timeframes. Given changing conditions in the ongoing COVID-19 pandemic, timelier information collection and promulgation is in the public interest.

For the foregoing reasons, Eastern supports the FAA's collection of this data regarding slot allocation and transfers. To support the public interest, Eastern reiterates the need for timely and useful disclosure of how slots are used and traded.

Respectfully submitted,

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