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**COMMISSION STAFF WORKING PAPER**

**Summary of IMPACT ASSESSMENT**

*Accompanying document to the*

**Proposal for a Regulation on rules and procedures with regard to the introduction of  
noise-related operating restrictions at Community airports  
which will repeal Directive 2002/30/EC of the European Parliament and of the Council  
of 26 March 2002**

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## Summary of IMPACT ASSESSMENT

### 1. PROBLEM DEFINITION

1. Within the regulatory context formed by ICAO obligations<sup>1</sup> and the principles of subsidiarity and proportionality set out in Article 5 of the Treaty on European Union, Directive 2002/30/EC<sup>2</sup> (hereinafter ‘the Directive’), going under the umbrella of the Environmental Noise Directive<sup>3</sup>, is part of the ‘balanced approach’ to noise management at EU airports.
2. The aim of the Directive is to facilitate the introduction of operating restrictions in a consistent manner at airport level so as to limit or reduce the number of people significantly affected by the harmful effects of noise.
3. To this end, the Directive lays down a common framework of rules and procedures for the introduction of operating restrictions at EU airports, which should safeguard environmental protection around the airports in a way that is compatible with internal market requirements by considering similar operating restrictions at airports with broadly comparable noise problems.
4. The common framework includes:
  - *rules on how to carry out in general the noise assessment process*, which has to be taken into account prior to the introduction of noise-related operating restrictions. Operating

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<sup>1</sup> In 2001, the International Civil Aviation Organisation (hereinafter ICAO) Assembly endorsed the concept of a ‘Balanced Approach’ to aircraft noise management. The ICAO Balanced Approach offers a policy framework for reducing noise at airports in a cost-effective manner and using restrictions on operations not as a first resort, but only after consideration of other possible measures, namely reduction at source, land-use planning and management, noise abatement operational procedures and operating restrictions. .

<sup>2</sup> Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports (Text with EEA relevance). OJ L 85, 28.3.2002, p. 40–46.

<sup>3</sup> Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise - Declaration by the Commission in the Conciliation Committee on the Directive relating to the assessment and management of environmental noise.

restrictions are defined as noise-related actions that limit or reduce access of civil subsonic jet aeroplanes to an airport.

- *specific rules on the introduction of operating restrictions aimed at the withdrawal of marginally compliant aircraft* (hereinafter MCA), which are the noisiest in the aircraft fleet. They are defined by the Directive as aeroplanes that have a cumulative margin of no more than 5 decibels in relation to Chapter 3 noise certification limits.
  - *a procedure*<sup>4</sup> to be followed by the relevant authorities on the introduction of any new operating restriction.
5. In light of the results of the stakeholder consultations, the Commission has come to the conclusion that, taking into account the intrinsic limitations to EU action set out above, the rules and procedures laid down by the Directive on the way EU airports introduce operating restrictions today are not applied in a consistent manner and their impact is limited. This is felt particularly on two levels:
- First, the specific rules on the introduction of operating restrictions aimed at the withdrawal of marginally compliant aircraft are no longer effective. Indeed, over time, the number of MCA has become comparatively small due to their natural replacement through technological development. The definition of the MCA has become obsolete and the associated phasing-out period inappropriate.
  - Second, stakeholders have reported that, in the current legal framework, operating restrictions are considered differently at airports with broadly comparable noise problems, entailing potential distortions of competition. This situation is due to the fact that the existing rules on how to carry out in general the noise assessment process are not clear and not sufficiently precise. Also, the existing procedure for introducing operating restrictions is considered to be too weak.

## 2. ANALYSIS OF SUBSIDIARITY

6. The Directive contributes to the proper functioning of the European air transport system. It responds to the objectives of Articles 90 and 91 of the Treaty on the Functioning of the European Union (TFEU).
7. According to Article 4 of the TFEU, EU action regarding noise-related operating restrictions, as part of the common air transport policy, has to be justified. In the present case, it is therefore necessary that the subsidiarity principle set out in Article 5(3) of the Treaty on European Union is respected. This involves assessing two aspects.
8. Firstly, assessment of whether the objectives of the proposed action could not be achieved sufficiently by Member States in the framework of their national constitutional system, the so-called ‘necessity test’. In the present case, this justification centres on the need to ensure that international rules and procedures are

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<sup>4</sup> This procedure covers areas such as consultation of stakeholders, prior information of the Commission and other Member States and right of appeal.

implemented by Member States in a uniform and efficient manner in order to provide EU and non-EU operators with a level playing field.

9. Secondly, it has to be considered whether and how the objectives could be better achieved by action on the part of the EU, the so-called ‘test of European added value’. The EU’s added value in terms of the present initiative should consist in implementing measures that take into account the situation of different airports while, at the same time, ensuring that noise-related operating restrictions are implemented in a cost-effective way at locations where the noise situation requires action and the appropriate, locally-tailored balance is found between the various transport and environmental policy objectives. Any individual action at Member State level would have the potential to prejudice the functioning of the internal market.

### 3. OBJECTIVES OF THE EU INITIATIVE

10. In the specific regulatory framework set out above, the *general policy objective* of this initiative is to harmonise and strengthen further the common rules and procedures concerning the introduction of noise-related operating restrictions at EU airports as part of the noise management process.
11. Thus revised, the common framework would promote the most cost-effective noise-related solutions designed to achieve noise quality objectives as established by EU, national or local rules. It should also contribute to the overarching noise policy objective of avoiding, preventing or reducing on a prioritised basis the harmful effects, including annoyance, due to exposure to environmental noise.<sup>5</sup>
12. In light of the root causes of the problems that have been identified, the general objective of the proposed initiative can be translated into more *specific goals*:
  - (1) Make the set of rules on MCA effective by revising the definition of MCA and the associated phasing-out provision<sup>6</sup>;
  - (2) Ensure that operating restrictions are considered at airports with broadly comparable noise problems in a consistent manner by:
    - clarifying how to carry out a noise assessment process;
    - strengthening the procedural framework leading to the introduction of operating restrictions.
13. In order to evaluate the progress made towards achieving the general and specific policy objectives, the following *operational policy objectives* are proposed:
  - The ratio of new curfews to total operating restrictions should be brought to a level that is comparable to the level achieved by other main

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<sup>5</sup> See Article 1 of the Environmental Noise Directive (2002/49/EC).

<sup>6</sup> This would involve the revision of Article 2 (d) and Article 6 on ‘Rules on the introduction of operating restrictions aimed at the withdrawal of MCA’.

economic powers by 2020 whilst reducing or, at least, containing the levels of noise exposure of citizens;

- All new operating restrictions should include measures targeting MCA with the aim of maximising noise reduction.

#### 4. POLICY OPTIONS

14. The logic of constructing the Policy Options reflects the interaction between the two problems. Each Policy Option is composed of two main components which address one of the problems each. Moreover, each Policy Option is designed to maintain at least the same noise climate as under a business-as-usual scenario (Policy Option 1). What distinguishes the Policy Options is the intensity of intervention that, depending on the option, is higher on the first, and lower on the second problem. Tackling the issues related to MCA (Problem 1) will lead to fewer and/or better-focused operating restrictions affecting non-marginally compliant (less noisy) aircraft. Hence the significance of the issues related to correct implementation of the Balanced Approach (Problem 2) for the latter aircraft decreases.

**Table 1: Mapping problem, drivers and objectives**

<i>Specific Objectives</i>	<i>Policy options</i>		
	<b>PO2</b>	<b>PO3</b>	<b>PO4</b>
<i>Make the specific rules on MCA effective by:</i>			
revising the obsolete definition of MCA	Change the definition of MCA to include aircraft below Chapter 3 -12 EPNdB standard	Change the definition of MCA to include aircraft below Chapter 3 -10 EPNdB standard	Change the definition of MCA to include aircraft below Chapter 3 -8 EPNdB standard
choosing an adequate associated phasing-out period	Complete phase-out allowed within 4 years	Complete phase-out allowed within 2 years	Complete phase-out allowed within 2 years
<i>Ensure that similar operating restrictions are considered at airports with broadly comparable noise problems in a consistent manner by:</i>			
strengthening the procedural framework leading to the introduction of operating restrictions	Establishment of EU-level support cell for implementation of the BA	Establishment of EU-level support cell for implementation of the BA	Establishment of EU-level support cell for implementation of the BA
clarifying and specifying how to carry out a noise assessment process	Additional rules on the scope of stakeholder consultation	Additional rules on the scope of stakeholder consultation	Additional rules on the scope of stakeholder consultation
	Higher legal certainty for infringement	COM right of scrutiny with suspension	Mandatory COM scrutiny and prior

procedures	possible until revised assessment is found adequate	authorisation
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- 15. The European legislation on airport noise is currently in the form of a Directive. This choice of legal instrument has partly led to the wide variation in the way operating restrictions are introduced in Europe.
- 16. In order to address the problems identified above, Policy Options 3 and 4 propose to give the Commission a right of scrutiny. This is justified by the fact that if the cost-effectiveness of an operating restriction is not demonstrated, taking into account other noise management instruments, the Commission would need to ensure that such a measure can be suspended until the assessment process is done in a correct way. Transparent, EU-wide applicable and interpreted criteria would need to be established on the possibility of suspending an operating restriction.
- 17. There is also the fact that the Policy Options include an update of the definition of MCA. This definition would need to apply equally in all Member States, being a technical standard which is agreed by the same Member States in ICAO. Reflecting on the likely future need to amend this definition in order to keep up with scientific progress and the autonomous renewal of the aircraft fleet, all Policy Options provide for the possibility of updating the definition of MCA through a delegated act by the appropriate committee.
- 18. On the basis of the above argumentation, a Regulation would probably be a more appropriate tool for translating the policy changes into legislation.

**5. ASSESSMENT OF IMPACTS**

- 19. The analysis of impacts shows that the three Policy Options have clear economic, social and environmental impacts.

- From an economic point of view, Policy Option 2 seems to be overall preferable as it has the smallest increase in administrative costs. However this Policy Option can be regarded as challenging in terms of international relations. Policy Option 3 would avoid this negative impact on external relations, but would pose an additional burden on the EU budget. This Policy Option would keep the administrative burden similar to Policy Option 1.
- Also from a social point of view, Policy Options 2, 3 and 4 have a similar impact. The only major difference in the effects stems from the extent to which operational measures affecting the safety of aircraft are scrutinised. Policy Options 2 and 3 can be considered largely equivalent in this respect.
- With regard to the environment, Policy Option 4 can be clearly distinguished by the relatively high potential of negative impacts related to trade-off between operational measures addressing noise and climate change. Again, Policy Options 2 and 3 can be considered by and large comparable in relation to the environmental impacts.

**Table 2: Summary table of impacts compared to Policy Option 1**

	<i>Policy Option 2</i>	<i>Policy Option 3</i>	<i>Policy Option 4</i>
<b><i>Impact on the implementation of the Balanced Approach</i></b>	Medium	Medium	High
<b><i>Economic impacts</i></b>			
<i>Impact on:</i>			
The efficient functioning of the European aviation network	Low	Low	Low
Airports	Medium	Medium	Low
Aircraft operators	Low	Low	Medium
Airframe and aircraft engine manufacturers	Medium	Medium	Neutral
Administrative costs	<i>Up to €1 800 000/year</i>	<i>Up to €3 000 000/year</i>	<i>Up to €4 200 000/year</i>
EU budget	<i>Low</i>	<i>Medium</i>	<i>High</i>
International relations	<i>High</i>	Low	Medium
<b><i>Social impacts</i></b>			
Impact on governance and participation	High	High	High
Impact on employment level and conditions	Low	Low	Low
Impact on safety	Low	Medium	Medium
<b><i>Environmental impacts</i></b>			
Impact on noise	Neutral	Neutral	Neutral
Impact on climate change	Medium	Medium	Neutral

Legend:

Negative impacts are identified as dark orange in bold italics.

‘HIGH’ refers to high likelihood of significant impacts. ‘MEDIUM’ and ‘LOW’ mean lower probabilities of a significant impact arising. The magnitude of impact will in all cases depend on the measures chosen through the discretion of local and national authorities and aircraft operators.

## **6. COMPARISON OF OPTIONS**

### **6.1. *Coherence***

20. As shown above, Policy Option 3 is the most coherent, carefully balancing action to achieve the specific policy objectives. No significant negative impact is foreseen under this Policy Option, which therefore represents the lowest trade-offs across the economic, social, and environmental domains.

### **6.2. *Effectiveness***

21. Table 3 gives a brief overview of the policy options’ effectiveness with regard to the specific policy objectives defined in Section 3. This shows that in terms of effectiveness, no clear priority can be established. Nevertheless, Policy Option 3 appears to be the most balanced option because it offers the most appropriate palette of actions to meet the defined objectives.

22. As regards the objective related to the rules on MCA, the effectiveness of the envisaged Policy Options is dependent upon their level of ambition in relation to the noise performance of aircraft. In this respect, Policy Option 2 is expected to score best because the revised definition of MCA is the strictest, in that the MCA will encompass aircraft whose noise performance is below Chapter 3 -12EPNdB standard and therefore close to Chapter 4 aircraft. Accordingly, Policy Option 4 offers the lowest effectiveness, being the least ambitious in terms of noise performance of aircraft, whereas Policy Option 2 scores better than Policy Option 3.

23. As regards the objective related to the consistent introduction of operating restrictions at EU airports, the effectiveness of the envisaged Policy Options is dependent upon the degree of the quality control performed. Policy Option 4 offers the best possibilities in this respect. The option benefits from its much stronger focus on the procedural framework, especially with the prominent role of the Commission in controlling the quality of the assessment process. The Commission will indeed be in charge of mandatory scrutiny and prior authorisation of any envisaged operating restrictions at EU airports. Compared to Policy Option 4, Policy Option 3 is less effective because the quality control will not be systematic. However, it will enable the Commission to focus its quality control on the most problematic operating restrictions. Policy Option 2 is expected to be by far the least effective because scrutiny of the quality of the assessment process will be performed ex post through infringement procedures.



**Table 3: Effectiveness of envisaged Policy Options in light of specific policy objectives**

<i>Specific policy objectives</i>	<i>Policy Option 1</i>	<i>Policy Option 2</i>	<i>Policy Option 3</i>	<i>Policy Option 4</i>
Make the specific rules on MCA effective by: revising obsolete definition of MCA choosing an adequate associated phasing-out period	neutral	high	medium	low
Ensure that similar operating restrictions are considered at airports with broadly comparable noise problems in a consistent manner by: clarifying and specifying how to carry out a noise assessment process strengthening the procedural framework leading to the introduction of operating restrictions	neutral	low	medium - high	high

### **6.3. Efficiency**

24. Given that the proposed initiative is of a procedural nature, the total cost of the envisaged Policy Options covers administrative costs and cost to the EU budget.
25. In light of the estimations detailed above, Policy Option 2 appears to be the most efficient as it would bring about the smallest increase in administrative costs. However, this assessment does not take account of the potential costs of an international dispute in the highly globalised aviation market, possibly negatively affecting EU aircraft operators.

### **6.4. Conclusion**

26. In light of the above, preference is given to Policy Option 3. Policy Option 3 appears, in particular with respect to coherence, the most suitable Policy Option for achieving the objectives identified in Section 3.

## **7. MONITORING AND EVALUATION**

27. The Commission will properly evaluate and review the Regulation five years after its adoption. On top of the evidence produced in the framework of a scrutiny or appeal procedure on particular cases, the Commission will constantly monitor a set of core indicators which will be updated to trace the effectiveness of the Regulation.

**Table 4: Monitoring indicators**

<i>Key indicators</i>	<i>Definition</i>	<i>Relevance</i>
<i>Monitoring the noise performance of aircraft and quality of noise management policies</i>		
<i>Noise certification</i>	This indicator shows the noise performance of new aircraft.	This indicator monitors the progress in noise performance of new aircraft.
<i>Number of movements of MCA</i>	This indicator gives the number of flights performed in the ECAC region of MCA (can be detailed per airport and airline).	This indicator shows trends in the use of MCA.
<i>Overview of operating restrictions and the mix of noise mitigating measures</i>	This new indicator would compile information from noise action plans and performance plans on the quality of noise mitigating measures.	This indicator would reveal the quality of noise assessment process.