

Regulation (EU) 2020/2225 of the European Parliament and of the Council of 23 December 2020 on common rules ensuring basic air connectivity following the end of the transition period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Text with EEA relevance)

Article 3

Definitions

For the purposes of this Regulation the following definitions apply:

- (1) ‘air transport’ means the carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, held out to the public for remuneration or hire, including scheduled and non-scheduled air services;
- (2) ‘international air transport’ means air transport that passes through the airspace over the territory of more than one State;
- (3) ‘Union air carrier’ means an air carrier with a valid operating licence granted by a competent licensing authority in accordance with Chapter II of Regulation (EC) No 1008/2008;
- (4) ‘UK air carrier’ means an air carrier which:
 - (a) has its principal place of business in the United Kingdom; and
 - (b) fulfils one of the following two conditions:
 - (i) the United Kingdom and/or nationals of the United Kingdom own more than 50 % of the undertaking and effectively control it, whether directly or indirectly through one or more intermediate undertakings; or
 - (ii) Union Member States and/or nationals of Union Member States and/or other Member States of the European Economic Area and/or nationals of such States, in any combination, whether alone or together with the United Kingdom and/or nationals of the United Kingdom, own more than 50 % of the undertaking and effectively control it, whether directly or indirectly through one or more intermediate undertakings;
 - (c) in the case referred to in point (b)(ii), held a valid operating licence in accordance with Regulation (EC) No 1008/2008 on the day before the first day of application of this Regulation as referred to in the first subparagraph of Article 15(2);
- (5) ‘effective control’ means a relationship constituted by rights, contracts or any other means which, either separately or jointly and having regard to the considerations of fact or law involved, confer the possibility of directly or indirectly exercising a decisive influence on an undertaking, in particular by:
 - (a) the right to use all or part of the assets of an undertaking;

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2020/2225 of the European Parliament and of the Council, Article 3. (See end of Document for details)

- (b) rights or contracts which confer a decisive influence on the composition, voting or decisions of the bodies of an undertaking or otherwise confer a decisive influence on the running of the business of the undertaking;
- (6) ‘competition law’ means law which addresses the following conduct, where it may affect air transport services:
- (a) conduct that consists of:
 - (i) agreements between air carriers, decisions by associations of air carriers and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;
 - (ii) abuses by one or more air carriers of a dominant position;
 - (iii) measures taken or maintained in force by the United Kingdom in the case of public undertakings and undertakings to which the United Kingdom grants special or exclusive rights and which are contrary to point (i) or (ii);
 - (b) concentrations between air carriers which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position;
- (7) ‘subsidy’ means any financial contribution granted to an air carrier or an airport by the government or any other public body at any level, conferring a benefit, and including:
- (a) the direct transfer of funds, such as grants, loans or equity infusion, the potential direct transfer of funds, or the assumption of liabilities, such as loan guarantees, capital injections, ownership, protection against bankruptcy or insurance;
 - (b) the foregoing or non-collection of revenue that is otherwise due;
 - (c) the provision of goods or services other than general infrastructure, or the purchase of goods or services;
 - (d) the making of payments to a funding mechanism or entrustment or direction to a private body to carry out one or more of the functions mentioned under points (a), (b) and (c) which would normally be vested in the government or other public body and the practice in no real sense differs from practices normally followed by governments;
- No benefit is deemed to be conferred by a financial contribution carried out by a government or other public body if a private market operator solely driven by profitability prospects, in the same situation as the public body in question, would have carried out the same financial contribution;
- (8) ‘independent competition authority’ means an authority which is in charge of the application and enforcement of competition law, as well as the control of subsidies, and fulfils the following conditions:
- (a) the authority is operationally independent and is appropriately equipped with the resources necessary to carry out its tasks;

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- (b) in performing its duties and exercising its powers, the authority has the necessary guarantees of independence from political or other external influence and acts impartially; and
 - (c) the decisions of the authority are subject to judicial review;
- (9) ‘discrimination’ means differentiation of any kind without objective justification in respect of the supply of goods or services, including public services, employed for the operation of air transport services, or in respect of their treatment by public authorities relevant to such services;
- (10) ‘scheduled air transport service’ means a series of flights possessing the following characteristics:
 - (a) on each flight seats and/or capacity to transport cargo and/or mail are available for individual purchase by the public (either directly from the air carrier or from its authorised agents);
 - (b) it is operated so as to serve traffic between the same two or more airports, either:
 - (i) according to a published timetable; or
 - (ii) with flights so regular or frequent that they constitute a recognisably systematic series;
- (11) ‘non-scheduled air transport service’ means a commercial air transport service performed other than as a scheduled air service;
- (12) ‘territory of the Union’ means the land territory, internal waters and territorial sea of the Member States to which the TEU and the TFEU apply and under the conditions laid down in those Treaties, and the air space above them;
- (13) ‘territory of the United Kingdom’ means the land territory, internal waters and territorial sea of the United Kingdom and the air space above them;
- (14) ‘Chicago Convention’ means the Convention on International Civil Aviation, signed in Chicago on 7 December 1944.

Changes to legislation:

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