



# European air transport liberalization: Possible ways out of the single European sky gridlock



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## ABSTRACT

This article presents the gradual liberalization of European air transport, especially its most recent problems in the case of the Single European Sky (SES). Indeed, after successfully liberalizing airlines and, to a certain extent, airports, the European Commission has embarked on the process of creating an SES. The article describes the process and the main actors. It focuses in particular on the identification of the various actors' interests, and explains the current gridlock of the SES as a result of conflicting objectives among the main players, which include, among others, the member states and the European Commission. A way out of this gridlock may reside in a novel approach to unbundling different types of services, and introducing competition in some of these services.

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The Single European Sky (SES) is the latest and perhaps last step in the creation of an integrated European aviation market. Once achieved, the European Commission will have succeeded in harmonizing the airspace and in creating an efficient and non-discriminatory European air transport infrastructure. However, this last step of European aviation liberalization appears to be more complicated than initially anticipated and has actually ended in gridlock as of recently, and this despite the fact that arguments for the SES abound and that objections are difficult to justify.

In this paper, we will crystallize the reasons for such gridlock by way of an actor analysis. On the basis of such an analysis, we will then outline a possible way out of the current gridlock. The paper is structured as follows: in Section 1 we will recall the history and the process leading up to the SES. In Section 2, we will then present the main features of the European SES, in particular its performance regime, which not only crystallizes the current weaknesses, but moreover puts significant pressure towards its realization. Section 3 then identifies the various actors which actively participate in or are directly affected by the SES process. In Section 4, we will then crystallize these different actors' interests. Section 5 will finally make recommendations as to how this gridlock can be

overcome, namely by taking the various actors' interests and possible resistances into account.

The paper is grounded in organizational behaviour theory and institutional economics and is written from a political science perspective. Indeed, the European Commission is developing since 1987 a coherent policy on air transport liberalization, which it is implementing across its member States by way of regulatory means, something Dumez and Jeunemaitre (2007) call a “regulatory toolbox”. While these liberalization policies have been successful in the case of air transport and less successful in the case of airports, they are encountering a gridlock in the case of airspace. Yet, air transport is a system of which airlines, airports and air traffic control are all indispensable elements. Air transport liberalization in Europe will thus only be as successful as its weakest part, which today clearly is airspace and its harmonization. Our paper therefore analyzes how the European policy agenda can progress in the case of airspace as well. The current gridlock of the SES is clearly a matter of actors, whose incentives are not aligned, to say the least. Our paper thus identifies and analyzes the relevant actors that both block and have it in their hands to promote the SES.

## 1. History and context

The European Commission has gradually established itself over the past 25 years as the central player in European aviation liberalization, notably air transport liberalization. With the creation of a Single European Sky (SES), originally planned for 2020, the last

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obstacle on the way to a single European aviation market should be removed, meaning that national airspaces, as well as their management by State-owned monopolistic organizations (e.g., air traffic control) should be restructured and should operate more competitively.

This liberalisation agenda can be compared to similar initiatives by the European Commission to create a single European electricity, gas and telecommunications market, as well as a single European railway area. In doing so, the European Commission is always proceeding in the same way, namely by establishing its competence in the matter, by gradually removing the barriers to competition (e.g., de-regulation) and by clarifying the rules for the functioning of this European market (e.g., re-regulation). The definition of these rules will ultimately result in the European Commission establishing a European regulatory agency.

### 1.1. History of aviation liberalization

Consequently, the European Commission (EC) has sought and obtained more competencies to regulate also in the area of air traffic control and management (ATM). This, in turn, has to be seen in the context of a much broader European liberalization agenda, which had already given the EC the powers to liberalize air transport and airports. To recall, air transport liberalization – i.e., the so-called “ninth freedom” (meaning the unrestricted competition among the European airlines in Europe) – was achieved in three discrete steps: in the first Aviation Package (1987) “code-sharing” was legalized and the role of the nation-states in determining transport prices was seriously restricted. In the second package (1990) the so-called “fifth freedom (also called “cabotage”) was introduced, meaning that the airlines could embark passengers during a stop on the way to a third country. In the third package (1997) the “ninth freedom “was finally introduced. This freedom allows the airlines of a European Member States to operate to and from any EU member country, including on domestic flights. A European operator license was established and pricing was completely liberalized. It is this last step of the air transport liberalization process which has led to the emergence of low-cost or rather low-fare airlines, notably Ryanair and Easyjet. Low fare airlines, today account for approximately 25% of the traffic (Eurocontrol, 2012: 21). Some analysis foresee up to a 55% market share of the intra-European traffic for the low fare airlines (Wulf et al., 2010).

Towards the end of air transport liberalization, three main parallel measures were taken by the European Commission, all aimed at supporting competition in the European air transport sector, namely by facilitating the access of airlines to key infrastructures and services. In 1995 the Commission started to regulate airport slot allocation by way of its Regulation 93/1995, which, so far, remains the only piece of European legislation in this matter. The aim of this regulation was to offer certain priorities to new entrants when it comes to allocating newly available slots. However, 8 years later the effectiveness of this Regulation remains highly contested by new entrants, as well as by experts (Kosenina, 2013). Capacity remains scarce at many European airports at peak hours. There is indeed “a shortage of slots at slot-restricted airports, which seems to be a hurdle particularly for new entrants” (Kosenina, 2013: 4). The consequence of this situation is that “incumbent carriers are protected from effective competition and that the benefits of the internal market cannot be fully exploited” (Kosenina, 2013: 6). As a result, the Commission is currently proposing new legislation focussing in particular on a slot-trading approach. This legislation, however, has not yet been adopted.

Similarly, the market for ground-handling services was opened by EU Directive 67 (EC 67/1996). The aim of this Directive was to make ground-handling services more cost-efficient as well as to

increase their quality. This Directive is currently being amended by the Commission, but the changes proposed are minor (De Bournonville, 2013). Finally, a code of conduct for computer reservation systems was introduced by Regulation 89 in 1999 (EC 89/1999). Its aim was to “ensure that the distribution of airline products was neutral and non-discriminatory between airlines” (EC, 2003).

The liberalisation of the European Airspace – called the Single European Sky (SES) – is only the most recent, yet decisive, element of the European Commission’s aviation liberalisation agenda.

### 1.2. Air traffic control: the context

In order to understand the nature of air traffic control liberalization, it is necessary to briefly recall its history and functioning (Baumgartner, 2007). Although, following the First World War, there weren’t large numbers of aircraft taking to the skies, administrators realized that regulations were required and that some standardisation should be applied. This was particularly important in Europe with its multiple national boundaries and languages. One of the lesser known decisions emanating from the Versailles Peace Treaty, was the International Convention for Air Navigation (ICAN). Following the world’s first commercial mid-air collision on 7 April 1922 over France, measures were taken to ensure it wasn’t repeated. These measures included carriage of radio and organising a defined set of routes for all to follow visually.

In the wake of studies initiated by the US and the Allied Forces, the American government invited 55 States in November 1944 to an international civil aviation conference in Chicago. Two of the States which participated in the meeting established the International Civil Aviation Organisation (ICAO). However, even more important was the creation of the “Chicago Convention”,<sup>2</sup> which set the foundations for the rules and regulations concerning air navigation in all its aspects, and which enabled a common and global air navigation system to be created. Headquartered in Montreal, ICAO today manages all aeronautical spheres and establishes world standards. It currently has 190 member states who all remain sovereign over their national airspace, a principle which still today applies, even to the SES.

### 1.3. Why a single European sky?

During the past two decades all major intergovernmental initiatives in Europe to modernise ATM have been triggered by major crises affecting the travelling public and thus politicizing the issue. To recall, during the late 1980s air traffic increased in double digit numbers and the infrastructure on the ground was not ready for such traffic growth. In 1989 member States agreed to create the so-called Central Flow Management Unit (CFMU) so as to manage capacity beyond a national perspective. Prior to this date, there was no central management of the flows in Europe. Furthermore, the member States agreed to designate Eurocontrol<sup>3</sup> as being the manager, tasked with balancing the capacity offered with the

<sup>2</sup> Formally the “convention on International Civil Aviation” was signed in Chicago on 7. December 1944. Through amendments and annexes, this remains a dynamic reference for the industry.

<sup>3</sup> Eurocontrol is an international organisation with full legal personality created by six European member States (Germany, Belgium, France, United Kingdom and Northern Ireland, Luxemburg and the Netherlands) in 1960. It became operational in 1963 and has today 39 States as members, along with the European Commission. Its membership is thus broader than the European Union. To achieve its mission, Eurocontrol works closely with Member States, air navigation service providers (ANSPs), civil and military airspace users, airports, the aerospace industry, professional organizations, intergovernmental organizations and the European institutions.

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