



## **Business Aviation 2020**

### **Brexit implications – the United Kingdom and EASA**

We welcome the opportunity to provide this input to the DfT team to inform those in the Brexit negotiating team of the potential impact of their agreements on Business Aviation.

I should start by saying that as a community, business aviation through the BBGA has consistently advised of the need to retain EASA regulations and clear, unrestricted access to the Single European Skies. As a member of the EU, the UK also has access to the European Common Aviation Area (the ECAA) (overseen by EASA) and to 17 other non-ECAA countries through horizontal agreements (e.g. the US Open Skies Agreement and the Canadian Air Transport Agreement). Our airlines and operators fly within the ECAA under the nine freedoms of the air (see Table 1 below). The latest statements issued by Government has made it clear that we will not be part of EASA beyond December 31<sup>st</sup>, 2020. I therefore feel bound to make clear that this will have a profound impact on our sector if certain other agreements are not put in place during the negotiations.

There appears to be a lack of any specific post Brexit strategy for UK aviation. Separating from a well-established and functioning infrastructure without a clear alternative strategy makes little sense. We have a world leading aviation industry in the UK, which should surely be integral to future trade plans – however, pulling away from the foundation regulations and fair and equitable access to open areas of operation would fundamentally undermine this.

#### **The Nature of Business Aviation**

We need to make it clear that the very nature of business aviation is fundamentally different from scheduled airlines. All our work is unscheduled and by its nature defined as Ad-hoc. This means that our status when dealing with slots and airports, places us in a different category with absolutely no priority. We do not operate to fixed city pairs like scheduled airlines and for well over 90% of our flights, our departure and arrival points are completely different. It is fair to say that scheduled airlines rely on the 1<sup>st</sup> through 5<sup>th</sup> freedoms of the air. From a business aviation perspective whilst we use those first five freedoms, many of our flight plans also require freedoms 6 through 9. For us not to have access to those freedoms will destroy the key value proposition and competitiveness of many of our operators in the UK.

Freedoms of the air		
First freedom	Flying over a foreign country without landing.	
Second freedom	Refuel or carry out maintenance in a foreign country without embarking or disembarking passengers or cargo.	
Third freedom	Fly from the home country and land in a foreign country.	
Fourth freedom	Fly from a foreign country and land in the home country.	
Fifth freedom	Fly from the home country to a foreign country, stopping in another foreign country on the way.	
Sixth freedom	Fly from a foreign country to another foreign country, stopping in the home country on the way.	
Seventh freedom	Fly from a foreign country to another foreign country, without stopping in the home country.	
Eighth freedom	Fly from the home country to a foreign country, then on to another destination within the same foreign country.	
Ninth freedom	Fly internally within a foreign country.	

Table 1

Our recommendation is very simple for your negotiating position: **for Ad-hoc unscheduled flights we must retain all the freedoms of the air for access to the EU, and full and free access to the ECAA and beyond from the UK in the same way.** The reciprocity in agreements needs to be contemporaneous to avoid any competitive advantage being given to EU operators over our UK operators, even over a short period of time, which could give them a foothold we will never recover.

An analysis of traffic in the corporate aviation sector is set out below in Table 2. It is readily apparent from this analysis how important access to the EU market is for our UK operators and the immediate impact a lack of access would mean.

**Timeframe:** 1/1/19 – 31/12/19

**Operator Type:** Aircraft Management, Branded Charter, Fractional, Private (excludes Ambulance, Cargo, Training, Demo, Maintenance)

**Aircraft Segment:** Light, Super Light, Mid, Super Mid, Heavy, Ultra Long Range (excludes Turboprop, Entry Level, Very Light, Airliner)

- UK to EU and EU to UK traffic: annual volume of total hours flown on these routes, what % of total market is covered by these two routes?
  - UK → EU: 73,820 (7.7%)
  - EU → UK: 77,219 (8.1%)
  - Total Market (To/From/Intra Europe): 955,125
- Intra UK flights: annual volume of hours, what % of total market?

<ul style="list-style-type: none"> <li>○ Intra UK: 11,853 (1.2%)</li> <li>○ Total Market (To/From/Intra Europe): 955,125</li> <li>● UK to USA and USA to UK route: total volume of hours operated on these routes by UK / EU AOC holders <ul style="list-style-type: none"> <li>○ UK → USA: 24,423</li> <li>○ USA → UK: 22,189</li> </ul> </li> <li>● UK to rest of the world: total volume of hours operated on these routes by UK / EU AOC holders <ul style="list-style-type: none"> <li>○ UK → Rest of The World: 120,777</li> </ul> </li> <li>● What % of the EU AOC market is intra EU only (excluding to/from and intra UK movements) <ul style="list-style-type: none"> <li>○ % (If Total Market Excludes UK): 60.8% <ul style="list-style-type: none"> <li>▪ Intra Europe (Excluding UK): 439,724</li> <li>▪ Total Market (To/From/Intra Europe And Excluding UK): 723,582</li> </ul> </li> <li>○ % (If Total Market Includes UK): 46.0% <ul style="list-style-type: none"> <li>▪ Intra Europe (Excluding UK): 439,724</li> </ul> </li> </ul> </li> </ul> <p>Total Market (To/From/Intra Europe And Including UK): 955,125</p>
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Table 2 – courtesy Flexjet Limited

Typical corporate aviation users are wealth creators, using ad hoc operations to invest, showcase, employ and support the locations to which they travel. They depend on free movement around the UK and Europe to do this. If UK operators cannot enjoy this freedom of movement, then wealth creators have less options available. Our pool of aircraft will also be reduced, resulting in less trade. The statistics in the above table demonstrate this very clearly and could not be substituted by airline alternatives. We have seen this already with London night closures, where aircraft and their users are simply bypassing the UK.

Commercial Operations (Type A/B Operating Licence and Air Operator Certificate Holders)

Business aviation commercial operators have been evolving around EASA regulations over the long term, based around shared markets and integration of UK and EU personnel, including operator ownership. It is almost impossible to restructure this by 31<sup>st</sup> December 2020, and even if the UK were to adopt EASA regulations, that would not help unless EASA reciprocates.

Commercial aircraft operations are almost exclusively based on a model of aircraft ownership that depends upon their being used by “airlines” operating for reward chiefly on international routes. If the EU is no longer accessible, the ownership model would no longer work, as it is unlikely a typical business jet would generate enough added value to warrant ownership. Most UK operators have business plans and operating models incorporating 5<sup>th</sup> to 9<sup>th</sup> Freedom flights, and without this capability, they are highly likely to reduce or cease their operations.



## Free Circulation in the EU and VAT

Following submissions by BBGA last year, we have an understanding provided by the previous Chancellor of the Exchequer regarding the VAT/import status of aircraft imported in the UK and/or the Isle of Man post 31 December 2020. However, we are faced with a very different position when we touch down in the EU, as no assurances have yet been given from the EU countries as to how they will treat UK/Isle of Man imported aircraft going forward. Unless we have an agreement with the EU, there is a high risk all such aircraft will be deemed automatically exported from the EU on 31 Dec 20 without any grandfather protections. In this event, any one of the thousands of aircraft at risk could be faced with VAT payable on the value of the aircraft as soon as it lands in the EU. For example, a USD65m Gulfstream G650 landing in Paris could face an immediate tax hit of 24% on 1 January 2020 *despite* that aircraft previously having been declared for VAT and being in free circulation in the EU.

The Net Book Value of affected aircraft should be considered in a context where owners needing free circulation in the EU under the EU VAT Regulation would almost certainly need to relocate / re-register the aircraft in an EU member state where it would continue to enjoy free circulation, depriving the UK of the employment and tax revenues that currently exist around each aircraft.

The typical aircraft/employment ratio for a registered aircraft is between 7 to 10 UK PAYE employees per aircraft - this would be lost, together with the corporation tax currently paid by companies owning and operating these assets. **Has this almost certain loss of tax income been considered?**

What is needed is a bilateral agreement that if an aircraft is properly imported and has accounted for VAT in the UK or the Isle of Man pre 31 December 2020, that aircraft should continue to have free circulation in Europe. Similarly, aircraft imported into the EU under the current VAT Regulation should continue to have free circulation in the UK post 31 December 2020.

## EASA approvals

There are significant complexities with each of the approval processes required for the maintenance and support of aircraft in the EASA network. Currently we can train people and that training is accepted by all EU member states as either supporting applications for initial training leading to licences or supporting approvals to add aircraft types to existing licences. This is for both pilots and engineers. Has a risk assessment been carried to assess the exposure to a CAA resource gap in managing and issuing new approvals?

If negotiating positions harden, then we could find ourselves unable to use pilots and engineers throughout the current market as we do now. It is vital that if we do return to a UK licencing system, that a full reciprocal agreement is in place which renders both those professional qualifications acceptable to EASA and EASA licences acceptable to the UK. **This should be a red line.** Otherwise UK trained pilots would only be able to fly UK registered aircraft until they requalify under EASA rules.



We are already seeing an impact on this where UK pilots are already moving to EASA rules in other member states. Not only are we losing excellent people, we are also at risk of losing the training facilities in the UK to these EU member states.

For maintenance activities, overhauled components released on Form 1 and aircraft released by UK facilities on Base Maintenance release, will on the 31<sup>st</sup> of December have no status in the EU unless full bilateral agreements are in place. Without such agreements to allow us to accept components onto our aircraft and offer those same components to EU registered aircraft, then our ability to continue providing maintenance repair and overhaul to our existing European customers stops overnight. Even if a transition period is considered, this could still see maintenance checks invalidated. For example, an aircraft which has just undergone a major check in the UK with six-year periodicity may have to have the check redone to be acceptable to EASA. The cost alone would be prohibitive, even if we assume the facilities in Europe have the capacity to do the checks immediately after 31 December 2020. The same situation applies with respect to components that may need to be removed from aircraft long before reaching life expired because their certification is no longer valid. The maintenance facilities in the UK would immediately lose a significant proportion of their business to other EU member states which can offer EASA compliant maintenance across the continental bloc.

We must not back ourselves into this corner and this applies both to ourselves and the scheduled aviation community. **This should be a red line.**

### Modifications

Once an aircraft comes into service it can be modified for both technical reasons and to meet a client need. We tend to use modifications from existing sources under bilateral agreements already in place. Or we have EASA approved design organisations under Part 21 j. This approval is the only element of the existing structure which is directly approved and controlled by EASA. The oversight may be delegated to the national regulator, in our case the CAA. In theory a modification designed by such an organisation could be used on EASA aircraft without question.

With the new UK stance on EASA, this approval will be brought back under the CAA and that design approval would be regulated directly by the CAA. Therefore, the output from those organisations under CAA control would not be acceptable for use on EU aircraft, unless a full bilateral agreement were in place. Another possible outcome is that individual design organisations may choose to retain their EASA approval and not hold UK approvals for business reasons. In this case we would have to accept modifications from an EASA organisation again through a bilateral agreement.



### UK regulation going forward

It is vital that if we do return to regulatory control through the CAA, we should be clear we do not want to see a return to a plethora of divergent requirements from the EU and the rest of the world, as was previously the case. We cannot understate the importance of DfT's role in overseeing this to make sure that we do not increase complexity and cost, lose business and key people with no positive impact whatever on the state safety plan.

In addition, we have been pushing Performance Based Regulation and Performance Based Oversight as an EU initiative, with the UK in the lead. Now would be a good time to review where we are with this approach, as we move to control our own destiny. Perhaps we have learnt through the implementation process that it is not quite the solution that industry and the regulator had expected. It would certainly be opportune to consider where we are with this approach and whether we should modify what we do in the months ahead.

### Conclusion

Until the recent announcement by the Transport Secretary, official briefings anticipated the aviation sector remaining under EASA, assuring consistent safety standards and a level playing field for our operators across Europe. Moreover, this would ensure access not only to EU Member states, but also to the ECAA and non ECAA countries through horizontal agreements. If the UK is now to leave the regulatory oversight of EASA, this will have a hugely negative consequence on the BusAv Sector, unless other agreements are put in place to assure continuing fair and equitable access to member States and wider global markets. The Business Aviation sector is worth more than £3Bn direct and up to £5Bn through indirect activity to the UK economy.

Business Aviation is fundamentally different from airlines in delivering point to point access and retention of all the Freedoms of the Air in all operating areas is vital to the sector's continued viability, because the bulk of our flying is to and within Europe and beyond. Without retention of 5<sup>th</sup> to 9<sup>th</sup> freedom rights, many businesses will be forced to close.

An agreement with the previous Chancellor was reached on the VAT/import status of aircraft imported into the UK and the Isle of Man prior to December 2020. However, if this agreement is unsupported by Europe, our aircraft can no longer be in free circulation and would be subject to VAT on landing in Europe. A bilateral agreement with the EU is therefore essential to ensure our aircraft can remain in free circulation in Europe after 31 December 20.

EASA approval and certification is vital for our technical personnel, maintenance and aircraft, and for modification and parts certification. If, therefore, we do revert to UK licencing, regulation, certification and oversight, a full bilateral agreement with the EU would be essential to stop the collapse of our UK businesses and ensure we do not return to a plethora of divergent requirements from the EU and the rest of the world. The importance of all these points cannot be overstated as the very future of business aviation in the UK is at stake.