

67th SINGLE SKY COMMITTEE

Proposed changes to Commission Implementing Regulations (EU) No 390/2013 for the 3rd Reference Period of the Performance Scheme



Article 3 Performance Review Body

Commission proposal

New provision in Article 3 to address the role of the PRB, as informed by the NM, to assist the Commission in the identification of additional corrective measures to address the drop in capacity performance.

PSOs position

The PSOs are not in favour of this proposal. The PRB is an European body with European competencies at EU level. PSOs are opposed to the fact that the PRB could advise the EC on local issues. The PRB is an advisory body and should remain as such.

The main reasons are

- **More bureaucracy/complexity and decision power confusion.**
- **Duplication of work with NSA**
- **Contrary to the subsidiarity principle with a risk to diminish the role of NSAs**

The only operationally possible option is that ANSPs and NSAs with support from the NMI should act jointly and collaboratively to define the best corrective measures possible. Only these entities have the necessary expertise to analyse, propose and implement the corrective measures.

Article 5 Functional airspace blocks

Commission proposal

“New provision in Article 5 (2) to ensure that, regardless of their geographical scope, Performance Plans include initiatives designed to support cross-border coordination and the provision of cross-border services.”

PSOs position

This proposal is replicating the FAB initiative, and this was the SES vehicle to allow for cross-border coordination. The performance regulation cannot introduce such cross borders obligations without the proper legislation.

The PSOs believe that the improvement of cross border coordination and the provision of cross border services can contribute to the performance of the ATM system, but in a marginal way. Military areas are often situated close to borders and the charging and performance regulation is not considered as an appropriate mechanism to deal with military issues. A dedicated study should be launched to understand the impact of these military areas.

The requirement to include initiatives on cross boarder services is also an additional unnecessary burden. The performance scheme as a whole is not mature enough within member states and this should be the focus if any, rather than distraction around any potential cross boarder services. This initiative could also contradict national performance plans.

Article 6 Network Manager

Commission proposal

“a revised Article 6(c) to ensure that, over the duration of the reference period for the performance scheme, the consistency of the individual reference values in the Network Operations Plan with the Union-wide targets considering the latest traffic forecasts and traffic evolutions:”

PSOs position

The PSOs would like to recall some basic principles

- **The NM is not a regulator and as such has no enforcement powers**
- **AU flexibility vs ANSP margins.**
- **The NOP is not an appropriate tool to initiate legal action.**
- **The NOP is a living document to maximise performance in a collegiate manner.**

The PSOs don't understand how synergies between NPP (5 year plan, enforcement power) and NOP (living document, based on collaborative decisions) could be found.

The difficulties to reconcile these 2 documents (opposite nature, opposite live cycle, opposite enforcement power) introduced by this option seem to be underestimated.

Nevertheless, the difficulty in achieving the Union target for RP2 and particularly the 0,5 minutes of delay is clear and is regarded as a serious issue to be solved. With regard to the huge increases of traffic in some parts of the network, this target is no longer valid.

This main difficulty of achieving the RP2 EU target is caused by the lack of flexibility of the performance and charging regulations and this has to be solved. The more unpredictable the Airspace User behaviour, the more flexibility the ANSPs need.

Both flexible EU wide targets and flexible individual contribution have to be considered for RP3. Clear difficulties have been identified with the creation of a link between the NOP and performance and charging regulation.

The total system has an imbalanced approach to flexibility, with total flexibility on one side (airspace users) and hard targeting with little flexibility on the other (ANSPs). This results in a system that cannot adapt quickly to changes in AU behavior, and the incredulous situation that ANSPs then are sanctioned for not providing the right capacity.

Article 6 Network Manager

Commission proposal

“a new provision to address the support task of NM with respect to a delay reassignment process to achieve a Network ATFM (Air Traffic Flow Management) delay optimisation; and a revised Annex III.”

As stated during WS 13 November by the Network Manager

“NM expressed the view that it has not fulfilled the role as a regulator, or a service provider. The NM does not have the power to regulate or enforce, and it does not provide capacity as a service provider. The NM works between the operational stakeholders and the regulator to find solutions to implementation”.

PSOs position

PSOs position is that this proposal must be more detailed to be properly understood and should respect the basics of the role and nature of the NM.

NM is not a regulator.

ANSPs have started to implement collaborative ATCFM en-route solutions. These ANSPs should be encouraged to implement such solutions but the role of NM must remain to support operational stakeholders.

Article 10 Union-wide performance targets

Commission proposal

“Modified Article 10(4) to propose that alert threshold(s) to be determined by the Commission, beyond which the alert mechanisms referred to in Article 19 may be activated, should address:

Deviation of the actual traffic from the traffic assumptions (as set out in the Annex to the Commission Implementing Decision) over a given calendar year”

PSOs position

- The wording “The Commission shall determine the alert threshold(s) beyond which ” of Art 10 IR 390/2013 allows some flexibility

together with

- art 19 “Where, due to circumstances that were unforeseeable...”
- Art 19 (3). Member States may decide to adopt alert thresholds different from the ones in Article 10(4), in order to take account of local circumstances and specificities.

These 3 elements are considered as a positive and flexible way of considering the alert mechanism.

The proposal of the Commission to remove the Members States role to define the alert threshold and to only consider a deviation of the actual traffic from the traffic assumptions is considered too restrictive by the PSOs.

Article 10 Union- wide performance targets

Commission proposal

“Modified Article 10(4) to propose that alert threshold(s) to be determined by the Commission, beyond which the alert mechanisms referred to in Article 19 may be activated, should address:

to consider variation of the reference values (targets as indicated in the Annex V of the Network Management Functions IR), at FAB, ANSP and/or ACC level, from the seasonal updates of the NOP.”

PSOs position

The NM is not a regulator and as such has no enforcement power

- **The NOP is a living document to maximise performance in a collegiate manner.**
- **The NOP is not an appropriate tool to initiate legal action.**

PSOs position

Due to the rationale mentioned above, the PSOs do not support this proposal.

ANSPs and NSAs should be better considered to define a better adaptive process as they could act jointly and collaboratively to identify when and why the alert thresholds should be activated.

Article 11 Drawing up of performance plans

Commission proposal

“Proposal of the Modified Article 11(3) to require NSAs to include an explanation of the initiatives in place or being developed to support cross-border coordination and the provision of cross border services”

PSOs position

FAB is the SES vehicle to implement cross border initiatives. The performance regulation cannot introduce such cross border obligations without FAB and a proper legislation.

The staff organisations believe that the improvement of cross border coordination and the provision of cross border services can contribute to the performance of the ATM system, but in a marginal way. Military areas are often situated close to borders and the charging and performance regulation is not considered as an appropriate mechanism to deal with military issues. A dedicated study should be launched to understand the impact of these military areas.

The requirement to report on cross boarder services initiatives is also an additional unnecessary burden. The performance scheme as a whole is not mature enough within member states and this should be the focus if any, rather than distraction around any potential cross boarder services. This initiative could also contradict national performance plans.

Article 11 Drawing up of performance plans

Commission proposal

“Modified Article 11(3) to require NSAs to report on past and expected progress in deployment of SESAR common projects”

PSOs position

Staff organisations believe that the 2 regulations (Performance and charging) should remain distinct of SESAR initiatives and of the measurement of the efficiency of SESAR deployment.

The performance scheme should be output based, not input based. The deployment of SESAR common projects may or may not help contribute, and again further administrative burden placed on the reporting of SESAR common projects will distract from other areas of the scheme. The PCP regulation is separate to the Performance scheme, therefore other methods should be used to track deployment progress.

Article 18 Ongoing monitoring and reporting

Proposal of the Commission

“Introduce appropriate provision for a hierarchy of responses if local capacity targets are not met incl.: Corrective measures, Performance incentives

NSA sanctions (coupled with revision of performance plan if considered appropriate), Escalation to Commission on advice of PRB”

As explained by the EC this option would consider the NOP as a trigger for enforcement these responses.

PSOs positions

The PSOs do not consider the sanction principle as a valuable principle. The only operationally possible option to define best corrective measures is that ANSPs and NSAs with the support of the NM are encouraged to act jointly and collaboratively. Only these two entities have the necessary expertise to analyse, propose and implement corrective measures.

Furthermore, the NM is not a regulator and as such have no enforcement power

- **The NOP is a living document to maximise performance in a collegiate manner.**
- **The NOP is not an appropriate tool to initiate legal action.**

The PRB is EU entity with competencies at EU level and not at local level.

PSOs do not support this proposal for the different reasons stated above.

ANNEX I KPI and PI

Commission proposal

Modified Section 1 (3.2) to introduce a new PI related to the delivered sector opening scheme profile (# of ACC sectors per time period of the day delivered) to be checked against the planned/declared sector opening scheme profile (# of ACC sectors per time of the day planned/declared). The planned/declared number of sectors is obtained from the sector opening scheme in the NOP.

PSOs position

PSOs do not believe this proposal to be relevant. This indicator is interesting for local managers at sector level to better understand the characteristics of the traffic (volatility,) but would not be interesting to look at EU level.

The use of this indicator could lead to wrong analysis. Aggregation of very diverse local situations could lead to misleading conclusions and behaviours counterproductive to the provision of services.

Local specificities should be dealt at local level. There is no added value to introduce this PI in the performance regulation, this is a subject for local and operational experts and should not be integrated in to this regulation.

These subjects should only be dealt at wider level than the ACC level by experts in specific working groups to share common expertise and identify possible best practices.

ANNEX I KPI and PI

Commission proposal

“Modified Section 1 (3.2) to introduce the following additional PIs:

- *Delays in the 3-hour peak to assess the contribution to the total delay*
- *En-route/terminal ATFM delay at weekends*
- *Delay encountered in first rotation*
- *Delay exceeding 15 minutes »*

PSOs position

Local specificities should be dealt with at local level. These subjects should only be dealt at wider level than the ACC level by experts in specific working groups to share common expertise and identify possible best practices.

It will also increase the administrative burden of the PS.

There is no added value to introduce these PI in the performance regulation, what is a subject for local and operational expert should not be integrated in this regulation.

See the following slide for the rationale.

Example of the consequence of
Commission proposal
To modify Section 1 (3.2)

European Core area sector

Delay repartition of delay per hour and per day

Example of the importance of local specificities and the necessity to take into consideration all the proper operational elements to draw valuable conclusions

Delays in the 3-hour peak to assess the contribution to the total delay

Delay	Per day / Per hour																	
	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	
• Monday	149	285	126	26	72			13	62	104	531	64		10	1548	97		3087
• Tuesday	162	637	363	26				207	54	249	390	51			585	144		2868
• Wednesday	94	1033	652	104	5	78	266	137	5	632	568	309	91		194	4		4219
• Thursday	223	1592	677	146	68	364	433	73	230	87	478	24		61	485	273		5214
• Friday	119	1237	727	873	879	218	347	409	483	1161	1592	586	6					8637
• Saturday	166	2035	578	216	171	207	172	627	757	200	1031	666		26	1128	1179	12	9171
• Sunday	220	1218	333	200	133	14	20	43	558	4	507	54						3733
Total g	1133	8037	3456	1591	1328	881	1238	1897	2196	2478	5097	1754	97	97	3940	1697	12	36929

- The 3-hour peak structure is very different between the different weekdays (hour, level of delays)
- The 3-hour peak structure is very different between the different sectors
- The 3-hour peak structure is very different between the different ACCs and ANSPs

- Local indicator reflecting local circumstances
- Local indicator for local manager
- Aggregation of local circumstances providing non valid information at EU level