

**Recommendation N° IFTSS/2017/002/AT on the notification by Austria about its intention to grant an approval for a flight time specification scheme deviating from certain provisions of CS FTL-1 on the basis of Article 22(2) of Regulation (EC) No 216/2008.**

### A) BACKGROUND

1. By letter dated 29 September 2017, Austro Control GmbH as the competent civil aviation authority of Austria notified EASA about their intention to grant an approval for an individual flight specification scheme (IFTSS), on the basis of Article 22(2) of Regulation (EC) No 216/2008<sup>1</sup> and ARO.OPS.235 of Regulation (EU) No 965/2012, to support a deviation from CS FTL.1.235 (a)(1).
2. According to CS FTL.1.235 (a)(1), in a transition from a late finish/night duty to an early start at home base, the rest period between the two flight duty periods (FDPs) shall include a local night.
3. The deviation is proposed by the Austrian AOC holder "easyJet Europe Airline GmbH" (hereafter the operator). It states as follows:

*'At home base a transition may be planned from a night start to an early start without providing a Local Night between the two FDPs if the following conditions are met:*

- *The duty block may contain only one such transition;*
- *The duty may block contain no FDPs starting in the period 0200–0259 local time;*
- *The duty block may contain no more than one FDP starting in the period 0300–0459 local time and the FDP has no more than two operating sectors;*
- *The duty block may contain no more than five consecutive duty periods starting in the period 0200 to 0659 local time.'*

4. Austro Control GmbH substantiate their support to the proposed deviation with the following:
  - The Austrian based operator is part of the easyJet Airline group.
  - A deviation of the same nature and scope has been granted by United Kingdom to the UK based AOC holder - easyJet Airline Company Limited (EACL), following an EASA recommendation (No IFTSS/2016/003/UK).
  - The operator has mature SMS and FRMS, as established during an FRM audit performed by Austro Control GmbH on 22 September 2017, and in particular a robust reporting culture and an efficient Fatigue Safety Action Group (FSAG).
  - The operator introduced in their FRM Manual additional, more restrictive mitigation measures to prevent cumulative fatigue originated by high workload and disruptive schedules, such as:
    - a. extended rest – minimum rest time away from home base of 12 hours;
    - b. restrictions on FDP extensions – no more than one extension within seven consecutive days;
    - c. reduced number of sectors – a maximum of three consecutive duties that consist of six sectors will be operated within a duty block;
    - d. avoidance of backward transitions.

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<sup>1</sup> Regulation (EC) No 216/2008 of 20/02/2008 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European aviation Safety Agency and repealing Council Directive 91/670/EEC, regulation (EC) No 1592/2003 and Directive 2004/36/EC.



- The deviation will only be applicable on the basis of the operator's FRM Manual and FRM Crew roster rules. No change would be possible in these documents without a prior approval.
- The operator fulfils their obligations as recommended by the 2016 EASA recommendation: SPIs that have been established show that the scope of the deviation is limited compared to the number of aircrew and amount of sectors flown. EasyJet tracks the use of the deviation also in relation to the different bases.
- The operator conducts scientific research on the fatigue risks in its operation in regular intervals. An Alertness and Performance Examination (APEX) study to collect data about fatigue levels and establish appropriate mitigation took place in 2016. The next study will take place in 2018 focusing on the effects of easyJet early start duties.

## B) LEGAL FRAMEWORK

5. Article 22 (2) of the Basic Regulation states the following:

*"With regard to flight time limitation:*

- a) the Agency shall issue the applicable certification specifications to ensure compliance with essential requirements and, as appropriate, the related implementing rules. Initially, the implementing rules shall include all substantive provisions of Subpart Q of Annex III to Regulation (EEC) No 3922/91, taking into account the latest scientific and technical evidence;*
- b) a Member State may approve individual flight time specification schemes which deviate from the certification specifications referred to in point (a). In this case the Member State shall without delay notify the Agency, the Commission and the other Member States that it intends to grant approval for such an individual scheme;*
- c) upon notification the Agency shall, within one month, assess the individual scheme on the basis of a scientific and medical evaluation. Thereafter the Member State concerned may grant the approval as notified, unless the Agency has discussed the scheme with that Member State and proposed changes thereto. Should the Member State agree with these changes, it may grant the approval accordingly;*
- d) in the event of unforeseen urgent operational circumstances or operational needs of limited duration and non-repetitive nature, derogations to certification specifications may apply provisionally until the Agency expresses its opinion;*
- e) should a Member State disagree with the Agency's conclusions concerning an individual scheme, it shall refer the issue to the Commission to decide whether that scheme complies with the safety objectives of this Regulation, in accordance with the procedure referred to in Article 65(3);*
- f) the contents of individual schemes which are acceptable to the Agency, or on which the Commission has taken a positive decision in accordance with point (e), shall be published."*

6. ARO.OPS.235 of Regulation (EU) No 965/2012 reads as follows:

- (a) The competent authority shall approve flight time specification schemes proposed by CAT operators if the operator demonstrates compliance with Regulation (EC) No 216/2008 and Subpart FTL of Annex III to this Regulation.*



- (b) *Whenever a flight time specification scheme proposed by an operator deviates from the applicable certification specifications issued by the Agency, the competent authority shall apply the procedure described in Article 22(2) of Regulation (EC) No 216/2008.*
- (c) *Whenever a flight time specification scheme proposed by an operator derogates from applicable implementing rules, the competent authority shall apply the procedure described in Article 14(6) of Regulation (EC) No 216/2008.*
- (d) *Approved deviations or derogations shall be subject, after being applied, to an assessment to determine whether such deviations or derogations should be confirmed or amended. The competent authority and the Agency shall conduct an independent assessment based on information provided by the operator. The assessment shall be proportionate, transparent and based on scientific principles and knowledge.'*

7. The deviation refers to CS FTL.1.235 (a) (1), which reads:

*"If a transition from a late finish/night duty to an early start is planned at home base, the rest period between the 2 FDPs includes 1 local night."*

### C) EVALUATION

8. Considering the already issued EASA recommendation IFTSS/2016/003/UK, the Agency reviewed the deviation proposed by the operator and supported by Austro Control GmbH, including the following documentation:

- (1) Notification and Austro control GmbH Statement, 27.09.2017
- (2) EasyJet Europe Excerpt of OM-A , Chapter 7
- (3) EasyJet Excerpt of FRM Manual - crew roster rules
- (4) Deviation Report Summary – April 2016 – April 2017
- (5) Report on Monitoring June 2017 – August 2017
- (6) NASA Human Factors Monitoring Program (HFMP) Study Report 2013/ 2016 Alertness and Performance Examination (APEX) study.

9. The examination of the documents showed that:

- (1) Austro Control GmbH evaluation is based on objective data and the FRM audit results show a continued compliance with ORO.FTL.110 and ORO.FTL.120.
- (2) Relevant parts of the operator's OM and FRM manuals are identical to those of EACL in that:
  - the set of rules to control transitions between disruptive duties are the same; and
  - any change to the crew roster rules is subject to authority's prior approval.
- (3) EACL reports on implementation of the approved deviation, covering the periods of April 2016 – April 2017 and June 2017 – August 2017, demonstrate that data collection is carried out with the involvement of a representative sample of aircrew members and is based on the following SPIs:
  - Combination of night start duties and early starts:
    - not more than 5% of the total aircrew may be rostered on consecutive combinations of night start duties and early start duties; and
    - aircrew who have one occurrence of the deviation in a calendar month, will remain within the 20 – 25% margin.

- Transitions from late finish - after 23:00 local time to early starts:
  - not more than 1% (on average) of any aircrew rank may have a backward transition.

10. Those reports further show that the above target levels are maintained as:

- average number of all aircrew who operated early starts after a night start duty is at around 3.2%;
- 23% of aircrew have had one occurrence in a calendar month, for which the deviation was applied; 5% had two occurrences, whilst those who did not have any occurrence were 75% on average across the reporting period; and
- the percentage of backward transitions is less than 1% across all aircrew.

11. In order to assess whether the two presumably identical FTL schemes could be influenced by operations under different AOCs (although those AOCs belong to operators of the same group), the Agency requested additional evidence.

12. Further to EASA request, the operator provided a safety case that contains the following statements:

- The operator utilises aircrew from the collective group pool, shared with the easyJet Airline Company Limited (EACL) - UK AOC. These air crew members are rostered under exactly the same rule sets, agreed with their various representatives and unions;
- In order to assure interoperability of the aircrew between AOCs, the approved FTL schemes are identical. This has been achieved in part by taking into account the most limiting time bands for "early" and "late" type operators for the schemes thus avoiding any risk of infringement of the rules concerning disruptive schedules;
- The crew remain employed by easyJet Airline Company Limited (EACL) at all times and their terms and conditions are unaffected by multiple AOC operations. Crew rostering continues to be accomplished through the Operations Planning department of EACL. Multiple AOC operation does not involve any change in base or home environment; the crew continue to operate as at present. The Austrian and UK AOCs operate the same flying programme;
- There is no difference between the ways in which the Austrian and UK AOCs meet their obligations under ORO.FTL.110. Crew roster production, report times and rest periods remain unchanged. The effectiveness of roster control is monitored through the easyJet FRMS Safety Action Group at which all easyJet AOCs are represented;
- Both UK and Austrian AOCs are subject to the same Fatigue Risk Management which ensures that hazard identification, risk assessment and mitigation are common throughout;
- Initial and recurrent training is carried out for all personnel involved in FTL/FRMS including those holding management roles. Recurrent training is conducted on an annual basis;
- The nominated person for Flight Operations attends the Fatigue Safety Action Group (FSAG) and is able to report on the activities to the competent authority, including the provision of the minutes of the meetings if required.



## D) CONCLUSION

### 13. Considering that:

- The deviation notified by Austro Control GmbH and proposed by easyJet Europe (AT AOC holder) is identical in substance, scope and monitoring methods to the deviation already approved by United Kingdom for the UK based AOC holder - easyJet Airline Company Limited (EACL), following an EASA recommendation (No IFTSS/2016/003/UK);
- There are insignificant changes in the operational and organisational environment and those cannot affect the proper implementation of the deviation,

### 14. EASA concluded that in the context of easyJet multiple AOC operations the deviation would ensure a level of protection equivalent to CS FTL-1, provided the following conditions are met:

#### (1) Austro Control GmbH approves the operator's IFTSS with the following deviation:

*'At home base a transition may be planned from a night start to an early start without providing a Local Night between the two FDPs if the following conditions are met:*

- *The duty block may contain only one such transition;*
- *The duty may block contain no FDPs starting in the period 0200–0259 local time;*
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- *The duty block may contain no more than five consecutive duty periods starting in the period 0200 to 0659 local time.'*

- (2) The above deviation is only applicable on the basis of the operator's FRM Manual and FRM Crew roster rules and any change thereto is subject to a prior approval by Austro Control GmbH.
- (3) The operator's continued compliance with ORO.FTL.110 and ORO.FTL.120 is ensured under the oversight of Austro Control GmbH.
- (4) Austro Control GmbH closely monitors the work of the operator's Fatigue Action Group (FSAG) and in particular the operator's fatigue reporting culture based on performance indicators.
- (5) Austro Control GmbH ensures that the operator continues to collect data based on a representative sample of the operator's crew population and monitors the data based on the SPIs that have already been established.
- (6) Austro Control GmbH submits a report to the Agency for re-evaluation not later than 24 months after the approval of the operator's IFTSS.

11. DEZ. 2017

Signed on .....

  
Patrick Kr  
Executive Director

