

GOVERNMENT OF RUSSIA

DECREE

Dated 22 July 2009 No. 599

**On Principles to Ensure Access to Services Rendered by
Natural Monopoly Providers at Airports**

In order to ensure nondiscriminatory access to services rendered by natural monopoly providers at airports and in compliance with Article 10 of the Federal Act «On protection of competition» the Government of the Russian Federation resolves:

1. To approve the enclosed Regulations on ensuring access to services rendered by natural monopoly providers at airports.
2. To task the Ministry of Transport of the Russian Federation to approve the following documents within a 3 month period:
 - in agreement with the Federal Antimonopoly Service, develop the methodology to calculate technical capacity of airports and the procedure for its application ;
 - layout as well as contents of the application form to obtain services rendered by natural monopoly providers at airports;
 - layout and the procedure to maintain, a log of applications submitted to obtain services rendered by natural monopolies at airports.
3. To enhance the schedule of services rendered by natural monopolies at airports, whose prices (tariffs, charges) are subject to economic regulation, approved by the Decree of the Government of the Russian Federation No. 293 dated April 23, 2008 «On economic regulation and oversight of prices (tariffs, charges) of services rendered by natural monopolies at transport terminals, ports, airports as well as services pertaining to the use of inland waterway infrastructure» (Code of laws of the Russian Federation, 2008, No. 17, p. 1887), with Clauses 5 and 6 as follows:
 - «5. Provision of «into plane» services
 - 6. Jet fuel storage».
4. The Regulations approved by the present Decree shall take effect in 3 months upon signing of this document.

Prime Minister
Russian Federation
V.PUTIN

Are approved as the
order of the Government
of the Russian Federation
from July 22, 2009 of
No. 599

REGULATIONS ON ENSURING ACCESS TO SERVICES RENDERED BY NATURAL MONOPOLY PROVIDERS AT AIRPORTS

1. The present Regulations determine general principles and procedures to ensure access for users to services rendered by natural monopoly providers (hereafter - «Services») at airports in order to discourage conditions, that may put a user (several users) in a disadvantageous position in comparison with any other user (other users) while accessing infrastructure facilities at airports as well as services available at airports.

2. As used in the present Regulations the terms listed below shall have the following meaning:

«Principal operator» means an economic entity that holds the airport's certificate and the state license to prove operational suitability of the aerodrome;

«Operator» means an economic entity that holds the airport certificate, possesses and (or) uses on a legal basis multiple facilities, including aerodrome, and (or) passenger terminal building, and (or) other objects of airport infrastructure intended for rendering of entire range, or a part of, services at airports;

«Users» mean air carriers performing regular and charter air transportation, air operators (the «Air Operators») as well as other persons, except for passengers, enjoying the services at airports or those applying to obtain services at airports;

«Airport infrastructure facilities» mean infrastructure and equipment, operational-technical facilities, located at the airport and directly used for rendering services to users at airport;

«Slot» means departure and (or) arrival (takeoff or landing) time scheduled into the timetable for a particular aircraft type (types) on a certain date (day of week);

«Historical slot» means a slot scheduled into the timetable in the previous equivalent period;

«Right of the Historical slot» means the right to enjoy the slot similar to the one scheduled into the timetable in the previous equivalent period;

«Summer season» means the half-year that starts on the last Sunday of March and ends on Saturday before the last Sunday of October;

«Winter season» means the half-year that starts on the last Sunday of October and ends on Saturday before the last Sunday of March;

«Technical capacity of the airport» means a forecasted value that is determined by accepted throughput rate of the airport infrastructure facilities, including runways, apron, air terminal building (terminals), immigration control points as well as facilities of airport fuel infrastructure and jet fuel storage.

II. General principles of access to services at airports

3. To ensure user access to services at airports Principal operators (Operators) are to:

a) discourage conditions that may put a user (several users) in a disadvantageous position in comparison with any other user (other users) while rendering services at airports;

- b) pursue a unified price (tariff) policy towards users while rendering services at airports;
- c) sign agreements that discourage conditions that may put users in a disadvantageous position in comparison with other users in comparable circumstances;
- d) ensure availability of information pertaining to the range of services rendered at airports, service delivery procedures, tariffs and charges.

III. General procedures on accessing services at airports

4. Services at airports shall be rendered to users on the grounds of the service agreement (hereafter - «Agreement») that shall be effected either in a simple written form, or in any other form stipulated by the laws of the Russian Federation, including ad hoc requests by users.

5. An entity which intends to conclude a Service Agreement (hereafter - «Applicant») shall send to the Principal operator (Operator) an application for airport services in writing (the «Application»). The Application form layout and contents of the information is a subject for approval by the Ministry of Transport of the Russian Federation; at the same time, the Application from users that are air carriers and (or) operators, shall contain, without fail, the following basic data:

- a) a schedule of Slots;
- b) flight frequencies;
- c) a schedule of operating aircraft types;
- d) required jet fuel volumes.

6. The Principal operator (Operator) shall keep a log of Applications where the date and time of receipt of the Application as well as its registration number shall be recorded. The layout of the log and its maintenance procedure are subject to approval by the Ministry of Transport of the Russian Federation. Refusal to register, corruption of the data indicated in the Application and registration number of the Application shall not be permitted.

Information contained in the Applications log shall be accessible to all users. The data contained in the log shall be posted in Internet on the airport's official website and shall be updated daily (on working days). Upon user's written request the data contained in the log shall be made available by the Principal operator (Operator) to that user on the day of the request.

7. The Principal operator (Operator) shall consider the Application within 3 working days from the date of receipt with regards to its consistency with requirements established by Clause 5 of the present Regulations. In case the Application contains any discrepancies it shall be returned to the Applicant within the indicated period of time. In case the Application is drawn up properly the Principal operator (Operator) within 15 calendar days from the date of the receipt of the application shall consider and confirm it by providing a signed draft agreement to the Applicant or by providing in writing a justified rejection to conclude the contract.

8. In case if the Applicant within 10 working days from the receipt of the signed draft agreement from the Principal operator (Operator), that meets terms and conditions of the submitted Application, does not make available to the Principal operator (Operator) the agreement signed by the Applicant or written comments and (or) proposals to the Agreement, the Application, on the basis of which the Principal operator (Operator) has signed the draft agreement, shall be considered void and the signed agreement draft sent to the Applicant by the Principal operator (Operator) shall be considered withdrawn upon the expiration of the indicated period of time.

9. The Principal operator (Operator) within 3 working days from the date of settling of any grounds for rejection beyond the Applicant's control shall notify thereof the Applicant whose Application for the conclusion of the Agreement was rejected.

10. The Principal operator, subject to availability of technical capacity at the airport and needs of users, shall give operators and other business entities an opportunity to render similar services as well as shall give users an opportunity on their own (in full or in part) to serve passengers and aircraft operated by them at the airport, including provision of jet fuel.

IV. The procedure for consideration of Applications at airports

11. The Principal operator (Operator) shall consider Applications for Slot allocation and issue approval of those adhering to 3 levels of priorities unless it is otherwise stipulated by Federal Acts, Regulatory Enactments of the President of the Russian Federation.

12. The primary (superior) level is the main one for approval of Applications and it contains the following priorities:

a) flights operated under the resolution of the Government of the Russian Federation as well as flights operated by state-owned aviation in compliance with requirements for national defense and security;

b) flights applied for on grounds of Historical Slots;

c) flights applied for on grounds of Historical Slots while the Historical Slots were made unavailable due to changes in the airport's throughput levels and (or) changes in the airport's operational schedule, where the air carrier had the Historical Slots;

d) flights, in respect of which change of time zone en route makes it impossible to use the right of the Historical Slot and (or) continue operations of the flights based on the allocated slots;

e) flights, slots for which were requested at the planning stage as a series of slots but not confirmed by the operator due to lack of technical capacity of the airport so that the series of slots have not been set up;

f) flights, the slots for which were requested on historical rights but could not acquire those due to priority of the historical rights of the slots allocated at the planning stage;

g) other flights.

13. The secondary level sets priorities for approving slot applications when 2 or more air carriers and (or) operators seek for the same slot within the priorities' framework outlined in Clause 12 of the present Regulations and subject to the type of traffic:

a) regular international passenger;

b) regular domestic passenger;

c) regular international cargo;

d) regular domestic cargo;

e) international charter passenger on regular basis;

f) domestic charter passenger on regular basis;

g) international charter cargo on regular basis;

h) domestic charter cargo on regular basis;

- i) international charter passenger on ad hoc basis;
- j) domestic charter passenger on ad hoc basis;
- k) international cargo on ad hoc basis
- l) domestic cargo on ad hoc basis
- m) general aviation.

14. The tertiary level sets the following priorities while approving slot applications when 2 or more air carriers and (or) operators seek for same slots in the framework of priorities set at the secondary level above:

- a) flights operated to the Far Eastern and Far Northern or to other remote areas with similar status;
- b) flights, operations of which are extended to all year-round period on the same local time;
- c) flights with longer period of operation in the planned season. In case of equal periods of operation the earlier calendar time of the start of operation shall have priority;
- d) slot applications providing for the greatest number of flights to be operated in the timetable for the respective season;
- e) flights having a greater number of airports en route with limited throughput capacities;
- f) flights providing for lesser turnaround time at airports;
- g) applications from users that have lesser total number of slots at the airport.

15. If need arise to revise already approved applications due to change in technical capacity of the airport or change of time zone en route the following set of priorities is to be observed for slot allocation:

- a) with the right of the Historical Slot in a greater number of consecutive equivalent seasons;
- b) with higher slot utilization factor in the previous equivalent season;
- c) with higher slot utilization factor in the current season;
- d) with earlier term of obtaining of approval of the slot in the current season;
- e) with earliest publication of flights for the current season's timetable.

16. In case when several applications submitted for allocation of the same slots, which, with regard to priority level are equivalent and impossible to accommodate at the same time because of limited technical capacity of the airport, consideration and approval of those applications shall be performed by the Principal operator (Operator) subject to priority of filing of the applications into the log stipulated in Clause 6 of the present Regulations.

17. Principal operator shall endorse and approve applications according to technical capacity of the airport with regard to each period of validity of the timetable (winter season, summer season).

18. The methodology to calculate airport's technical capacity (hereafter - «Methodology») as well as its application procedure shall be set by the Ministry of Transport of the Russian Federation in agreement with the Federal Antimonopoly Service.

Calculation of the technical capacity of the airport according to the Methodology shall be performed by the Principal operator (Operator).

19. The Principal operator shall develop a draft list of the Historical Slots to be agreed with users based on the analysis of flights actually operated within the frame of the timetable in the previous equivalent season.

20. The draft list of the Historical Slots shall be distributed to users that have the right of the Historical Slot for their endorsement by April 5 (the following winter season) and by September 5 (the following summer season).

21. During the planning stage by April 15 (winter season) and by September 15 (summer season) users shall confirm to the Principal operator their consent to use the right of Historical Slots by filing applications in compliance with the procedure set by the present Regulations or provide their comments to the draft list of the Historical Slots.

22. Slots that were not confirmed by air carriers and (or) operators in accordance with Clauses 20 and 21 of the present Regulations, shall be considered available.

23. Air carriers and (or) operators may file application for available Slots to the Operator as of April 21 (for the forthcoming winter season) and as of September 21 (for the forthcoming summer season).

The Principal operator shall endorse and approve the applications for the available slots to the air carriers and (or) operators from May 6 up to September 30 (for the forthcoming winter season) and from October 6 up to February 28 (for the forthcoming summer season).

24. The Slots, with respect to which by September 30, inclusive (winter season), or by February 28, inclusive (summer season), no timetable is published, shall be considered available. Users are eligible to file Applications for allocation of these slots.

25. The assignment (resale) of the approved Slots amongst users shall not be allowed.

26. Users may exchange amongst themselves any number of the approved Slots subject to consent of the Principal operator (Operator) of the airport and provided 'one for one» condition is observed. .

In case the Principal operator (Operator) does not agree with exchange of the Slots amongst users, the latter may decide not to utilize unnecessary Slots. In this case those Slots shall be considered available and they may be applied for in accordance with the procedure set by these Regulations.

27. User's failure to deploy more than 20 percent of the allocated slots during a season allows the Principal operator to declare such slots available (subject to prior obligatory written notice to the user, to which these slots have been originally allocated). Upon the expiration of 5 days after the date of such notice to the initial user available slots in question shall be confirmed as available and users may file applications for those slots.

28. In case of constraints to technical capacity the Principal operator (Operator) within 15 working days after receipt (registration) of the application shall notify the applicant in writing on conditions and scope of the services that may be rendered and incorporated into the agreement.

29. In case of user disagreement with the decision of the Principal operator (Operator) the former is eligible to file a request to the Principal operator (operator) to provide initial data and formula to estimate technical capacity of the airport. The Principal operator (Operator) within 3 working days after receipt of such request shall provide a written response that would contain requested information.

30. In case of insufficient technical capacity to respect all applications in full scope (with regard to their volume and (or) time of service delivery) the Principal operator (Operator) within 30 days after rejecting

the application on the ground of insufficient technical capacity of the airport shall develop an action plan to ensure such technical capacity become available. The abovementioned action plan shall be posted on the airport's official website as well as filed with the Federal Air Transport Agency.

V. Procedure of access to fueling services at airport

31. Fueling of aircraft at airports shall be performed as outlined in agreements signed in line with user applications for into plane services and storage of jet fuel.

32. Submission and approval of applications for fueling at the airport (hereafter «Fueling») shall be performed as outlined in Clauses 5 to 8 of the present Regulations.

33. Based on the applications from users that are air carriers, and (or) operators, and (or) jet fuel suppliers (air carriers or operators holding agreements for jet fuel supply) and provided technical capacity is in place at the airport (with regard to jet fuel infrastructure facilities) the Operators shall conclude agreements on the provision of fuelling services either as a package, or as individual services (as per Application) including jet fuel storage in volumes necessary to operate flights as per the slots confirmed to users and taking into account the route length, minimum jet fuel stock to be stored at the airport as well as into plane fueling using the fueling infrastructure at the airport (technological facilities and equipment used in the workflow of receiving, storing, quality control, preparation, dispensing and into plane processes).

34. In case of user disagreement with the rejection to render fueling services and (or) to provide access to the fuel supply market by other business entities because of insufficient technical capacity of the airport the parties shall act according to the procedure stipulated in Clauses 29 and 30 of the present Regulations.

VI. Disclosure of information pertaining to rendering of services at airports

35. Principal operators (operators) shall ensure user access to the information pertaining to rendering of services at airports via postings on the airport's official Internet website and by providing the information in response to written requests by the users.

36. The freely-accessible information pertaining to rendering of services at airport shall include the following items:

- a) range of services rendered at airport (indicating dates at which updates were made to this range);
- b) prices (tariffs, charges) applicable to services rendered at airport (indicating services that are subject to economic regulation as well as those exempt from such regulation);
- c) set of significant terms and conditions of agreements pertaining to ground handling and line maintenance services rendered at airport as well as into plane services and drafts/templates of the respective agreements;
- d) airport throughput capacity levels (prior to approval of the seasonal timetable);
- e) procedure to be used in delivering services in the event of limited technical capacity of airport infrastructure;
- f) data on technical capacity of the airport;
- g) information on airport technical capacity improvement programme;
- h) alerts on temporary disruptions to services and indications of the time frame for return to normalcy;
- i) information on tenders held by the Principal operator (Operator) (conditions, process, dates and validity);

j) data on airport infrastructure maintenance cost breakdown.

37. The information items referred to under Clause 36 of the present Regulations may not be treated as those of commercial confidentiality.

38. Any changes made to the information items referred to under Clause 36 of the present Regulations shall be posted by the Principal operators (Operators) at the official Internet website of the airport no later than 5 working days upon their introduction and shall be made available upon receipt of a written inquiry from applicants and (or) users.

39. The Principal operators (Operators) shall notify users of the affected period, no less than 45 days, prior to any scheduled limitations on access to services rendered at the airport, provided such limitation may affect rendering of services approved previously on the basis of Applications, unless otherwise stipulated by other statutory normative acts.

40. In accordance with the present Regulations, the Federal Antimonopoly Service and (or) its regional branches shall oversee the disclosure of information by the Principal operators (Operators).

41. While notifying the Federal Antimonopoly Service or its regional branches on disclosure of the information referred to in Clause 36 of the present Regulations Principal operators (Operators) shall provide the sources where such information is posted.

42. Investigation of violations related to conditions and procedure of ensuring access to services at airports and proceeding with resolutions on those shall be performed in accordance with the procedure set by the Federal Act «On protection of competition».