

Europeans for
Fair Competition



E4FC MANIFESTO

For a new aviation policy

May 2023

Introduction



Since the publication of the first Aviation Strategy¹ of the European Commission in 2015, both the global and the EU aviation landscape have undergone significant changes, but some basics remain unchanged: the necessity to have strong European airlines for the benefit of European citizens and their connectivity, high social standards and a sustainable industry.

Air connectivity has been a fundamental logistical pillar of global society over the past decades. European network airlines have built sophisticated hub-and-spoke systems, providing connectivity for all European citizens and cargo worldwide. This is something that cannot be done by non-EU airlines. A 2022 IATA report² showed that network carriers provide connectivity to most European itineraries, while low-cost carriers (LCCs) compete with them on popular routes. European network carriers also perform a vital function in connecting less popular European destinations. Despite the challenges posed by the COVID-19 pandemic, the aviation industry remained essential for ensuring connectivity, creating jobs, stimulating economic prosperity, and bringing people together across the EU and the world.

EU airlines operate in a highly regulated environment, with decarbonisation being a strategic priority. However, aviation is a global industry, and EU network airlines are competing at international and intercontinental levels to connect Europe with the world, therefore playing a significant role in the industry's global energy transition.

The sector has also witnessed increasing competition with the establishment of new EU business models and the growing access of non-EU carriers to the EU Single Market. Contrary to the effort made by European network airlines to promote and enforce high social standards, new business models often make use of loopholes to circumvent the applicable labour and social law. Furthermore, some of the main non-EU carriers' competitors offer lower social protection for their employees and are often faced with less sustainability requirements, which leads to lower operational costs.

Therefore, Europeans for Fair Competition (E4FC) - a coalition of European network airlines and unions representing airline employees fighting for fair competition and high social standards - advocates for comprehensive and consistent regulatory frameworks for both the internal and external EU aviation markets and calls for an Aviation Policy that highlights the key policy priorities for the future of the EU aviation industry.

¹ Communication on an Aviation Strategy for Europe, COM/2015/0598 final

² <https://www.iata.org/en/iata-repository/publications/economic-reports/one-size-does-not-fit-all---airline-business-models/>

EU aviation policy building blocks

E4FC advocates for the following building blocks as part of the EU aviation policy:

1

Securing the EU aviation industry's strategic autonomy

2

An external Aviation Policy that ensures the interest of EU Industry and effectively safeguards a level playing field

3

Sustainability and aviation: Ensuring competitiveness and avoiding carbon leakage

4

Safeguarding European standards and requirements for a socially responsible aviation sector

Securing the EU aviation industry's strategic autonomy

European network airlines and their employees face fierce competition from outside the EU. For this reason, European legislation must take into consideration the global nature of the industry. In recent years, the European Commission has recognised the importance of maintaining the strategic autonomy and independence of key EU industries, and it has started to take a harder stance on ensuring the competitiveness and strategic autonomy of aviation.

The European Green Deal Industrial Plan³ proposal from the European Commission in response to the increasing competition from the US and China aims to deliver on decarbonisation objectives of the EU, but equally promotes an increased European autonomy in (green) energy transition. A predictable and simplified regulatory environment also safeguards European employment and allows turning skills into quality jobs with decent incomes.

E4FC believes the EU possesses several tools that can help airlines stay competitive and independent. These include Regulation (EC) 2019/712⁴, Regulation (EC) 1008/2008⁵, provisions in EU comprehensive air transport agreements, and the recently adopted Regulation (EC) 2022/2560⁶. However, the European Commission needs to enforce and/or adjust these legislations adequately to maintain a level playing field for European airlines.

While presenting the Commission's proposal for Regulation (EC) 2022/2560, European Commission President Ursula von der Leyen emphasised⁷ the importance of a level playing field to address third-country subsidies that distort competition. She has also underlined the importance of fair competition in achieving net-zero emissions. To stimulate investments to achieve this, the EU must set the right regulatory framework. As part of the European Green Deal Industrial Plan, the European Commission has also pledged to ensure that foreign subsidies would not undermine the competitiveness of the EU industry in the green transition. Now that the new Regulation on foreign subsidies has been adopted, E4FC hopes to see effective enforcement

3 Communication on A Green Deal Industrial Plan for the Net-Zero Age, COM(2023) 62 final

4 Regulation (EU) 2019/712 of the European Parliament and of the Council of 17 April 2019 on safeguarding competition in air transport, and repealing Regulation (EC) No 868/2004

5 Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community

6 Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market

7 Speech of von der Leyen at the Business Europe Day 2020, 5 March 2020



of the new rules.

Building on Regulation (EC) 1008/2008, the current ownership and control regime aims to guarantee a consistent environment of fair competition and a truly functioning internal aviation market. Any change to those current rules would further open the door to unfair competition by - eventually subsidised - non-EU airlines or foreign strategic investors and could also result in the loss of European connectivity provided by EU airlines⁸. The resilience of the European aviation sector should be guaranteed by a regulatory framework safeguarding fair competition and securing the strategic autonomy of EU airlines rather than the liberalisation of access to non-EU capital. Therefore, the EU needs to protect the aviation sector, which contributes significantly to the economy and employment, from foreign takeovers and hidden agendas.

Any new EU (comprehensive) air transport agreements must duly take into account the legitimate interests of EU network airlines and have enforceable regulatory convergence on environmental, social and labour standards as much as possible.

The clarification and proper enforcement of existing provisions could also mitigate the risk of social dumping and should serve the objective of safeguarding fair competition while ensuring connectivity and consumer protection. Examples of lack of enforcement of current rules have been the Qatar Airways investment in Air Italy and the Etihad investments in Air Berlin and Alitalia.

E4FC calls on the EU institutions to safeguard the strategic autonomy and independency of European aviation industry, ensuring that European airlines do not suffer from a competitive disadvantage vis-à-vis non-EU carriers. E4FC believes that now is the time for the European institutions to properly enforce the current rules and revise the current Aviation Policy to secure a sustainable future of the EU aviation industry and European jobs.

⁸ European Commission (2019), Commission Staff Working Document - Evaluation of the Regulation (EC) No 1008/2008 on common rules for the operation of air services {SWD(2019) 296 final}, p. 105.



An external Aviation Policy that ensures the interest of EU Industry and effectively safeguards a level playing field

According to the European Commission, one of the key objectives of EU external aviation policy is to provide new opportunities for EU airlines in third countries through the EU comprehensive air transport agreements. These agreements should ensure that third parties are committed to observe the same standards as their EU competitors.

Therefore, the European Commission must ensure an effective enforcement of the existing comprehensive air transport agreements - such as with the State of Qatar. To maintain a level playing field, the European Commission must actively investigate the compliance with provisions on fair competition, financial transparency, and social standards.

The COVID-19 pandemic has impacted the aviation industry, and EU is focusing its legislative initiatives on transitioning to a sustainable and digital Europe. Due to these changes, the circumstances under which previous comprehensive air transport agreements (e.g., Morocco, ASEAN, etc.) were negotiated are no longer given. Therefore, the EU Member States must agree on a new negotiating template to ensure a level playing field in future agreements. Under the current circumstances, evidence shows that regulatory convergence is a challenge to achieve with non-EU countries, and market opening mainly benefits third-country carriers.

Before granting further market access to non-EU airlines, the European Commission must ensure a regulatory convergence with third countries as much as possible. Non-EU carriers planning to operate to the EU must comply with the principles set forth in the agreement before they are signed. This approach ensures that fair competition remains a basic prerequisite of the European aviation market and that the EU aviation sector continues to thrive in a level playing field. For instance, the European Commission should assess whether Flight and Duty Time Limitations (FTL) of third countries provide the same guarantees as the EU FTL⁹ when negotiating air transport agreements.

Moreover, to promote sustainable development, the EU is missing its chance to expand its environmental ambitions via agreements with third countries. Implementing air transport agreements without comprehensive and binding environmental requirements that would ensure a level playing field would

⁹ Commission Regulation (EU) No 83/2014 regarding flight and duty time limitations and rest requirements

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strongly undermine the credibility of the EU's climate ambitions and, in fact, violate EU law that now requires all relevant EU policies, including external trade policy, to promote sustainable development.

E4FC, therefore, calls on the European Commission to fully and effectively enforce the existing agreements and on the Member States to thoroughly consider and agree on a new negotiating template to bring it in line with the changed circumstances and to ensure the further growth of the EU aviation industry and its jobs.



Sustainability and aviation: Ensuring competitiveness and avoiding carbon leakage

The European Commission has set ambitious plans to achieve net-zero carbon emissions in the European aviation industry by 2050. However, delivering on these climate ambitions should not be detrimental to the competitiveness of European airlines and endanger European jobs.

The transition towards a more sustainable European aviation sector requires significant resources and investments, which significantly add to the costs of European airlines. The study by SEO Amsterdam Economics shows that the road towards net-zero emissions requires premium expenditures of €820 billion over the 32-year period (e.g., fleet renewal, R&D and alternative fuels)¹⁰. Considering the international nature of aviation, measures that are not placed in a global context can put EU airlines at a competitive disadvantage. This could cause a significant cost increase and shift traffic to hubs outside the EU, consequently damaging the competitiveness of EU airlines, endangering European jobs in aviation, and resulting in carbon leakage.

There are solutions to avoid such distortions and unintended environmental consequences. The Green Deal Industrial Plan should, therefore, ensure that the European aviation sector remains attractive for private investments and can benefit from green funding opportunities. Furthermore, the EU should address carbon leakage for aviation to reduce or eliminate the distortion of competition. For instance, the inclusion of aviation in the scope of the Carbon Border Adjustment Mechanism, when it will be revised in 2026, could alleviate the financial burden on EU carriers competing with their non-EU competitors and integrate environmental compliance in the EU comprehensive air transport agreements with third countries.

E4FC calls upon policy makers to ensure that EU legislation, aiming to achieve the decarbonisation of the aviation industry, is crafted in such a way that competitive disadvantage for EU airlines and unintended environmental consequences are eliminated.

¹⁰ Report on the Price of Net Zero, SEO Amsterdam Economics (SEO) and Royal Netherlands Aerospace Centre (NLR)



Safeguarding European standards and requirements for a socially responsible aviation sector

The aviation industry has experienced unprecedented competition in recent years, which has placed great strain on all aspects of aircraft operations. Business models are constantly evolving, new ones emerging, and as a result, often circumventing applicable labour and social laws and through disrespecting social rights, often distort fair competition within the EU and vis-à-vis non-EU carriers.

First of all, third-country airlines operating in the EU should adhere to European social standards and requirements, taking into account the right for every worker to decent working conditions which respect their health, safety and dignity. These fair and just working conditions are key social points to ensure a level playing field and maintain a high safety standard. A number of European network airlines provide decent pay and labour conditions to their employees. It is then a matter of fairness that non-EU airlines must adhere to fundamental social rights and not undermine the efforts of European network carriers to promote and enforce high social standards and requirements if they are to have access to the EU market. Furthermore, by importing lower safety standards from third-country airlines, unfair competition is possible and needs to be addressed. But there are also typical examples within the EU of unfair competition practices. These include, but not limited to, the use of fake or fictitious home bases, the misuse or fraud of social security certificates, the use of bogus self-employment, the misuse of the posting of the workers¹¹ and legal uncertainty regarding applicable labour and social laws to workers. These legal loopholes must be repaired sustainably and efficiently.

E4FC urges the European Commission to ensure a level playing field for all airlines and workers operating in the EU, including from third countries. EU airlines must be able to operate within an unambiguous regulatory framework to avoid the misuse of loopholes in European law. Third country airlines operating to the EU should adhere to European social standards and requirements.

¹¹ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services

Europeans for Fair Competition



About Europeans for Fair Competition (E4FC)

E4FC is a coalition of European network airlines and unions representing airline employees fighting for fair competition and high social standards with the objective to safeguard European aviation, European jobs and to sustain connectivity for Europe's citizens.

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