Commission Delegated Regulation (EU) 2020/2115 of 16 December 2020 amending Regulation (EC) No 1008/2008 of the European Parliament and of the Council as regards the temporary extension of exceptional measures to address the consequences of the COVID-19 pandemic with regard to operating licences (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2020/2115

of 16 December 2020

amending Regulation (EC) No 1008/2008 of the European Parliament and of the Council as regards the temporary extension of exceptional measures to address the consequences of the COVID-19 pandemic with regard to operating licences

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 9(1b) thereof,

Whereas:

(1) The COVID-19 pandemic has led to a sharp drop in air traffic as a result of a significant fall in demand and direct measures taken by the Member States as well as third countries to contain the pandemic.

(2) Those circumstances are beyond the control of air carriers and the consequent voluntary or obligatory cancellations of air services by air carriers are a necessary response to those circumstances.

(3) Union air carriers continue facing liquidity problems that could trigger, pursuant to Article 9(1) of Regulation (EC) No 1008/2008, the suspension or revocation of their operating licence, or its replacement by a temporary licence, without there being a structural economic need for that to occur. The granting of a temporary licence could send a negative signal to the market about the ability of an air carrier to survive, which in turn would aggravate any, otherwise temporary, financial problems.

(4) Regulation (EU) 2020/696 of the European Parliament and of the Council[(2)] allowed Member States' competent licencing authorities not to revoke or suspend the operating licence from 1 March 2020 to 31 December 2020 if the financial performance assessment was carried out during that period, and provided that safety was not at risk and there was a realistic prospect of a satisfactory financial reconstruction within the following 12 months. Regulation (EU) 2020/696 also granted the Commission delegated powers to extend the period of 1 March 2020 to 31 December 2020 referred to in Article 9(1a).

(5) In accordance with Article 9(1c) of Regulation (EC) No 1008/2008, the Commission presented a summary report to the European Parliament and to the Council on 13 November 2020.

(6) The Commission's summary report points out that despite a gradual increase between April and August 2020, air traffic levels were still significantly reduced in September 2020 in comparison to the same period in 2019. According to Eurocontrol data, on 25 November 2020 air traffic was 63 % lower than on 25 November 2019.

(7) Despite the difficulties in accurately predicting the recovery path of air traffic levels, it is reasonable to expect that the situation will persist in the near future and continue until December 2021. Based on Eurocontrol's latest air traffic forecast from September 2020, it is expected that in February 2021 air traffic will be 50 % lower compared to February 2020 (and assuming an uncoordinated approach among Member States to putting in place operational procedures and lifting national restrictions). The World Health Organisation data show that the number of weekly recorded COVID-19 cases in Europe reached 1.77 million on 22 November 2020 (44 % of global new cases), significantly exceeding the number of cases in spring 2020. Data from the European Centre for Disease Prevention and Control show that the 14-day case notification rate for the European Economic Area and the United Kingdom has been steadily increasing since summer 2020. According to its weekly surveillance report of 22 November 2020, the rate had reached 549 (country range: 58–1 186) per 100 000 population.

(8) It is reasonable to consider that the persistent reduction in the level of air traffic is the result of the impact of the COVID-19 pandemic. Based on the available data concerning consumer confidence in the wake of COVID-19, while in April 2020 around 60 % of respondents indicated that they would be likely to return to air travel within a few months after the pandemic subsided, that percentage dropped to 45 % in June 2020. The available data thus clearly indicate a link between the COVID-19 pandemic and consumer demand for air traffic and there has been no other event that could explain the decrease in demand for air transport.

(9) The Commission's summary report demonstrates that also the national and uncoordinated restrictions, quarantine requirements and testing measures introduced by Member States in response to the COVID-19 new cases in Europe since mid-August, often announced with very short notice, erode consumer confidence and result in lower demand for air traffic.

(10) In light of extremely low level of flight bookings, the abovementioned epidemiological and air traffic forecasts, as well as the uncertainty and unpredictability over national measures aimed at containing the COVID-19 pandemic, it is reasonable to expect that the low levels of air traffic and passenger demand attributable to the COVID-19 pandemic will persist throughout 2021. A return to pre-COVID traffic levels is not expected for several years. It is however too early at this stage to conclude whether capacity reductions will continue to occur beyond 2021 at similarly significant levels.

(11) Such low levels of air traffic and passenger demand could trigger continued liquidity problems of Union air carriers over the period from 31 December 2020 to 31 December