

FC5277

Posted on 31.10.2023 by Steve Forward

Category: [Flight Crew \(Commercial\)](#)

Report Title Commander's Discretion

Initial Report

The Captain informed operations at the outstation that they would not be applying Commanders Discretion (CD) for the return 4th sector to homebase in accordance with the guidelines in our OM-A. Operations told the Captain to call the Duty Pilot to discuss the matter because Operations don't deal with CD. As a courtesy, the Duty Pilot was contacted and they said that they had to complete a form for each Captain who doesn't wish to exercise CD. A Captain should not normally have to provide reasons as to why CD is not exercised. Only the Captain can make the decision for CD, it's considered exceptional, in unforeseen circumstances, and should be avoided in homebase with available standby crew; non-exercise of CD should be non-punitive as per guidelines in accordance with our OM-A. Nevertheless, the Captain was willing to explain his rationale briefly in not applying CD due to sustained TSRA at homebase and other issues heavily impacting the current FDP including an almost medical emergency with pax, multiple CTOTs, challenging non-precision approaches, and continuous CB avoidance in Southern Europe. What then ensued was that the Duty Pilot interrogated the Captain by suggesting hypothetical scenarios irrelevant to the current FDP.

All possible direct and indirect negative insinuations from the company, including from the Duty Pilot and Operations, should be removed when Commanders decide not to exercise CD so that a non-punitive, Just Culture environment is ensured that supports the safety decisions made by the Commander.

Comment

CHIRP has received many reports concerning Commander's Discretion in the last few months, including alleged pressure to apply discretion so that the aircraft can return to homebase following delays; retrospective requests to complete discretion reports post-flight when it is discovered that a crew member exceeded their FDP; manipulation of flight schedule timings associated with use of discretion; pressure to use discretion to resolve disrupted schedules; and requests to use discretion when aircraft are delayed during turn-round or preparation for flight.

CHIRP last commented on Commander's Discretion in our April 2023 [FEEDBACK Edition 146](#) where

we highlighted the associated regulation ([ORO.FTL.205 Flight Duty Period\(f\)](#)) and related [AMC1 ORO.FTL.205\(f\)](#)). As we said before, *"The use of commander's discretion is not a safety issue in itself provided it is managed properly. Importantly, it should not be used on a planned basis but is intended to be employed for those unplanned and unforeseen circumstances and delays that occur during a duty and which would take the crew beyond the normal FDP limit."* Moreover, and acknowledging that there have been plenty of resource and scheduling issues as companies still recover from the impacts of the COVID pandemic, the regulations are clear that *the exercise of commander's discretion should be considered exceptional and should be avoided at homebase and/or company hubs where standby or reserve crew members should be available* (AMC1 ORO.FTL.205(f)(a)), and that operators *shall implement a non-punitive process for the use of the discretion* (ORO.FTL.205(f)(6)).

Although the management of unforeseen circumstances during flight operations is a shared responsibility between operations management, flight and cabin crew, it is the Commander who exercises their overall responsibility for the safety of the flight as the final arbiter of any decisions: at his/her sole discretion, the Commander may extend the Flight Duty Period providing he/she considers that the safety of the flight will not be adversely affected by that extension. Whilst the Duty Pilot or Operations might offer suggestions and assistance in the decision, there is a fine line between this and applying direct or inferred pressure to use Commander's Discretion, and we commend the reporter in the case above for standing up to such perceived pressure in the face of what seem to be significant weather and external safety influences.

The pressures of contemporary operations and rosters mean that the use of Commander's Discretion appears to be becoming more of a regular rather than exceptional event. Although easy to say when not facing the multitude of associated pressures and potential poor behaviours from the company system, commanders need to ensure that they comprehensively assess all of the relevant factors to ensure that the safety of the flight will not be adversely affected before deciding to use their discretionary privileges to resolve any unplanned or unforeseen circumstances. Supporting this, the CAA recently sent an [open letter](#) to all operators reflecting on the fact that *"... the use of Commander's Discretion ('CD') is being inconsistently interpreted by industry stakeholders, leading to inappropriate application (or the perception of inappropriate application) of CD."* Within this note they emphasised that *"The operational consequences of the Commander considering it inappropriate to extend the crew duty period after report, including the possibility of a night-stop down-route, has to be accepted and no commercial pressure can be applied at any stage."*



