

ERA POSITION PAPER

GROUND HANDLING SERVICES AT UNION AIRPORTS – 2011/0397

Background

Ground handling provision at Union airports is currently regulated through national laws, under a European Directive 96/67/EC. The European Commission (EC) claims that this framework is no longer fit for purpose, because of the barriers to entry which are set too high to encourage efficient competition and quality not keeping pace with evolving needs.

Accordingly, the EC has proposed replacing the Directive with a Regulation (directly applicable in all member states) and has released a Draft, which is the subject of this ERA Position Paper.

ERA Analysis and Comment

The Draft Regulation, as with the other component regulations of the EC's "Airport Package", constitute a fundamental shift in control of airports and access to them – from States, airports and users to the Commission. Accompanying this assumption of power by the EC are the introduction of new bodies, with controlling, oversight, consultative and reporting functions, and these and the processes required by the Draft will add substantial cost. Moreover, although airlines would be permitted to self-handle and caps on the number of third party providers at each airport would be raised, the increased requirements demanded of all stakeholders, including ground handling companies and airlines may actually increase barriers to entry and thereby limit competition, increase costs and decrease quality – the opposite of the stated aims. Powers and authorities being divested with the EC include:

- raising 3 delegated acts (setting insurance requirements, quality standards and reporting obligations),
- raising an implementing act to control island airport PSOs,
- collecting, processing and acting on annual reports from: the Performance Review Body, all ground handling companies throughout every member state, all self-handling airlines, and every member states,
- being able to request any member state to review the approval for a ground handling company (and thus, in practice, to be able to control who can and who cannot provide ground handling) and,
- having the right to call for the minutes of any airport user consultation meeting occurring within the Union.

Every State will have to establish a new body, a competent authority, to carry out its tasks as laid out by the Draft Regulation, and an independent appeals body to adjudicate in various dispute scenarios that are specified in the Draft. Because of current variations of national laws, this may be beneficial in some States where current procedures are complex, but costly in those States that currently have no such procedures. Competent Authorities are given one particularly large and entirely new function – that of implementing a European-wide approval scheme. Each and every company providing ground handling

services, including self-handling airlines, will be required to apply for and obtain a formal approval, for which there will be strict requirements and which will require renewal every 5 years. A component will be a regime of periodic checks on suppliers. Approval will apply to every company, no matter how small, that undertakes a function in any of the 11 categories defined by the EC as constituting ground handling, and these are wide-ranging, covering everything from flight planning to crew buses, and from ramp handling to catering. ERA members believe that these requirements are overly prescriptive, introduce significant red-tape and will prove costly to implement. New entrants are effectively excluded because they will be unable to present the evidence required for an approval. An improvement in quality of ground handling will not come about through such an approvals process, but through an increased number of providers, so that airlines have the ability to select a service provider that meets their quality requirements.

Quality standards are also addressed in the Draft Regulation explicitly, as the EC will publish minimum quality standards under a delegated act with little in the way of scrutiny or industry input required. States will be able to add to the list as will airports, which will then publish detailed quality requirements. This could add cost and might interfere with the right and requirement for airlines to set their own standards and contract with suppliers to meet them, thus tailoring their product.

The Draft Regulation encourages unlimited access to the ground handling market at all airports and ERA strongly supports this. However, it gives States the facility to restrict the number of ground handling companies at an airport to a maximum of 3 for airports with more than 5 million passengers a year, or to 2 for airports with between 2 and 5 million. Where this is applied, a selection procedure will be applied to companies wishing to offer ground handling services. The Draft Regulation is overly prescriptive in detail for this selection, which could deter new entrants and increase the cost of implementation. In spite of this level of detail, the most important selection criteria of all – charges for services – is not included by the Commission and is not allowed to be considered. The selection process is supposed to be, according to the proposal, transparent – yet only the airport is allowed to see tender documents, so there is no transparency.

Where the number of handling companies is limited, as described in the previous paragraph, a State will be able to apply transfer of undertaking rules on the incoming companies, or self-handling airlines. The provisions as proposed substantially complicate the selection process and would prevent new companies applying more different, perhaps more flexible, practices and incentives, thereby leading to stagnation and a long-term decline in standards.

ERA Recommendations

ERA members do not believe that the Regulation opens the Ground Handling market sufficiently for the increased cost of new measures to be justified, and thus recommend that:

- the number of ground handling companies at very large airports not be restricted to only three,
- the approvals process for ground handlers - Chapter 4 to the Regulation – should be considerably simplified and the burden made proportional to the type of service offered.
- the selection procedure for ground handlers wishing to offer a service at airports with a capped number of providers - Articles 7-9 - should be simplified and proposed charges should be a part of the selection criteria. The award process, part of the selection process, should allow for a third party to have sight of the applicants' submissions, to ensure transparency (e.g. a representative of the User Committee elected by that Committee),
- the EC should not have the power to set quality standards,
- quality should generally be determined contractually between airlines and service providers,
- reporting requirements should be reduced,
- the potential for application of TUPE should be reduced/simplified,
- airlines should be allowed to self-handle their franchise companies, something which is not allowable under the current Draft,
- airports that choose to provide ground handling should have to do so through the selection process, rather than be exempt, in order to provide a level playing field,
- training requirements should be less prescriptive,
- safety (but not quality) sits with EASA, thus should not be addressed by the Regulation.