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Commission proposal for a Directive on aviation security charges

Joint Industry Position

The airline industry has always been committed to providing the best level of security for its passengers. However, most aviation security measures also aim at protecting not only aircraft, passengers and crew, but also citizens and assets on the ground.

The airline industry, therefore, maintains its consensus position (agreed and promoted world-wide) that as the security threat is a manifestation of the threat against States, the provision and cost of aviation security should be borne by States from general tax revenues and not only from aviation taxes and user fees. Citizens legitimately expect States to ensure that security is supported by the most appropriate measures and the best available technology.

According to IATA's forecast, by the end of 2009, the airline industry worldwide will have lost \$9 billion and European airlines are expected to report a \$1.8 billion loss. Meanwhile, obligatory external costs, e.g. fuel, airport charges, ATM and security charges continue to increase.

Whilst the airline industry is not calling for State Aid, in order to ensure the survival and competitiveness of commercial air transport in Europe, European regulators should be supporting the industry by helping to control and reduce operational costs wherever possible.

On this basis, AEA, EEA, ELFAA, ERA, IACA and IATA jointly present the following initial comments to the Directive:

1. The aviation industry should not bear security costs alone

AEA, EEA, ELFAA, ERA, IACA and IATA regret that the present Commission's proposal on aviation security charges does not address the public funding of aviation security and maintain that this issue needs to be addressed by the EU, especially with regards to the funding of more stringent national measures that are imposed.

EU Member States and the European Commission need to address the issue of direct funding, as the aviation industry cannot continue to bear the costs of security measures. For example, in 2009, the US government invested \$1 billion in screening technology which will allow them to remove current restrictions on the carrying of liquids as of 2010. The EU is still far from this goal as airports will not have the financial resources to purchase similar appropriate equipment.

2. The Directive on aviation security charges should mirror the Directive on airport charges

The proposed Directive on aviation security charges should not be any less ambitious than the airport charges Directive. Any dilution of the provisions of the airport charges directive in the security charges text would be considered as an unacceptable retrograde step by the EU institutions.

To ensure the coherence of EU law and facilitate the implementation of the rules on airport and security charges, the relevant provisions in the airport charges Directive and in the security charges Directive, should be mirrored. This applies specifically to the provisions on remedy and investigation of the independent authority that are not included in this proposal on security charges. This lack of synchronisation is not justified, as airport users should have the same rights to disagree and challenge the level and structure of security charges at airports.

Moreover, fundamental ICAO policies on charges (Document 9082/8) also need to be strictly applied to security charges. Cost-relatedness should apply to ensure that the recovery from security charges does not exceed the costs involved for providing these services. Airport users also need to be informed about the effectiveness of the measures financed via security charges, as they obviously expect an adequate level in service provision.

Member States should also be encouraged to use the existing airport charges independent supervisory authorities, so that additional administrative burden and associated costs could be avoided.

3. The specificity of security charges should be taken into account

In some Member States, users are still paying for security costs, but certain aviation security charges (e.g. passenger and baggage screening) are directly levied by the governments, whereas other security charges (e.g. screening of staff and goods) are levied by the airport managing body.

In this context, the Directive shall not only refer to the “airport managing body” but also take into account those situations to create a coherent regulatory framework for all Member States and, therefore, include wherever the “airport managing body” is mentioned, the following wording: “**any other entity entrusted with the levying and/or collecting of security charges**”.

Transparent information on both cost and funding elements would allow airport users to gain satisfactory insight with regards to security charge mechanisms.

Security costs are also directly linked to regulatory requirements imposed on all aviation stakeholders. The principles of cost-relatedness and transparency shall, therefore, be strictly applied.

Considerations about the size of the airports and their potential degree of competition are actually limited to only a few cases, and cannot prevent the need to ensure better consultation between airport authorities, public entities and airport users on the implementation of security measures at airports.

4. Any security rule should be subject to an impact assessment

In fully understanding that security measures sometimes have to be adopted at minimum notice to respond to a new threat, the airline industry very much welcomes the mechanism proposed under Article 6 of the Directive, which will ensure that Member States produce an impact assessment and the requirement to consult airport users when introducing more national stringent measures. This impact assessment shall be made prior to adoption of the measure, or in the case of an emergency measure, immediately after implementation.

To ensure proper implementation of this provision, the Directive should further clarify that more stringent national measures are defined as any measures which differ or go beyond the relevant EU 'base line' regulation on aviation security.

Any aviation security measure applied should take into consideration the operational and financial impact on both the operators and the travelling public. The European Commission should, therefore, also be obliged to produce an impact assessment before introducing any security measure.

In Conclusion

The airline industry believes that an adequate Directive on security charges must improve the transparency of security costs and could ultimately help reduce security costs for passengers and shippers. It will allow for more consultation between the airport operators and lead to a more effective implementation of aviation security measures.

This Directive should, therefore, enter into force at the same time as the Airport Charges Directive in March 2011.

The role of Member States to ensure the adequate and efficient level of security measures through public funding, however, should be urgently addressed.

As previously stated, the present shortcoming in adequate funding will become even more visible as of 2010 when the EU will be confronted with the need to change its rules on liquids and introduce new screening requirements. The massive investment needed to purchase and deploy the necessary equipment will not be possible without any direct public funding, and the EU will lag behind its international partners in facilitating efficient and effective air travel for both community citizens and international transfer passengers.

For further information, please contact:

Association of European Airlines (AEA):

Marie-Caroline Laurent, Tel: 32 2 639 89 76 – Email: marie-caroline.laurent@aea.be

European Express Association (EEA):

John Goldsworthy, Tel: + 32 2 737 95 76 – Email: John.Goldsworthy@tnt.com

European Low Fares Airline Association(ELFAA)

Gaynor McLaughlin, Tel: +44 1784410390 Email: Gaynor.Mclaughlin@easyJet.com

European Regions Airline Association (ERA):

Nick Mower, Tel: +44 1276 856495 – Email: nick.mower@eraa.org

International Air Carrier Association (IACA):

Luc Geens, Tel: +32 2 546 10 60 – Email: luc.geens@iaca.be

International Air Transport Association (IATA)

Stefano Baronci, Tel +32 (0) 2 626 1808 – Email : baroncis@iata.org