

EUROPEAN REGIONS AIRLINE ASSOCIATION (ERA) POSITION ON THE EUROPEAN COMMISSIONS' PUBLIC CONSULTATION ON A POSSIBLE REVISION OF COUNCIL DIRECTIVE 96/67/EC ON ACCESS TO THE GROUND HANDLING MARKET

1 GENERAL COMMENTS

The general aim of the Directive should be to further liberalise the market in ground handling, provide greater competition for ground handling services, provide more choice and better value for air operators. Furthermore, any regulation which serves to liberalise a market should over time become less prescriptive.

There is a risk that the issues being discussed may, on balance, make the Directive more prescriptive in some areas. In all cases, any proposals for regulation must follow the European Commission's (EC) principals of "better regulation" which include clearly identifying problems to be solved and testing any proposals against a "do nothing" option.

2 IMPLEMENTATION AND EFFECTIVENESS OF THE DIRECTIVE

In many states the Directive has resulted in the establishment of a competitive market, lower prices and higher quality but in some states this has not been achieved. In addition the full potential has not been realised in some member states due to poor transposition of the Directive. It has also been noted that considerable differences exist between member states on insurance provisions for ground handling contracts. Better implementation should still be a key objective and the EC should ensure that the Directive is being robustly and consistently implemented in all EU member states.

3 SUB CONTRACTING OF GROUND HANDLING SERVICES

ERA believes that the Directive should allow unrestricted subcontracting of ground handling services thereby increasing the flexibility for the provision of ground handling. However, in doing so the license holder should assure itself that safety standards will not be eroded through sub contracting. Consideration should be given to ensuring that appropriate training and organisational procedures are put in place to assure this. A lack of an unrestricted market can lead to unintended consequences, for example, companies which have lost their license or whose license has been terminated are able to continue providing services as a subcontractor.

4 QUALITY STANDARDS

The Directive should not impose fixed quality standards. Airlines should be able to specify their own quality standards when establishing a ground handling contract. Fixed quality standards across Europe would reduce the flexibility for individual airlines to specify their own standards and may conflict with airline specific requirements. At airports where ground handling services are provided on a monopoly basis, or for monopoly provided services such as centralised infrastructures, there may be a need for minimum standards of service quality. However any ground handler must be able to demonstrate that it is able to achieve basic standards of quality, performance and service as defined by industry (eg IATA) before being awarded a contract.

5 STAFF SOCIAL CONDITIONS INCLUDING WORKING CONDITIONS AND STAFF TRANSFER

Recognising that other EU legislation already exists which protect workers' rights, the Directive should not introduce specific measures to regulate working conditions in the ground handling sector. The introduction of special provisions on social conditions for ground handling workers will only lead to over-regulation and the singling out of ground handling workers over other workers, many of whom also work in competitive and liberalised industries.

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6 REPRESENTATION OF AIRLINES

The Directive should not require airlines to be physically represented at remote stations or require an airline to designate a ground handler as its legal representative for matters not related to ground handling. In most cases the contracted ground handler will be the main operational point of contact between the airline and its customers but it is unlikely to be aware of issues such as the airport/airline relationship or the internal working procedures of the airline with respect to legal/commercial matters. The designation of a ground handler as a legal representative at remote stations is likely to add cost and complexity with little added benefit.

7 SAFETY AND SECURITY

Recognising that safety and security remains the highest priority for air carriers and that existing legislation already ensures the safety and security of ground operations, the EU Directive should not be amended to address safety or security issues related to ground handling. Current legislation includes Regulation (EC) 300/2008 on establishing common rules in the field of civil aviation security and the requirement under EU OPS provisions for airlines to nominate a "Post Holder Ground Operations". Ultimately the airline must assure itself, by means of quality control and SMS programmes, of the safety and security of its operation even if certain tasks are subcontracted to ground handlers and will be subject to regular inspection by relevant control authorities (eg SAFA & EU security inspection). Additional legislation may serve to duplicate or even contradict existing legislation. Finally it should be noted that safety and security are very different issues and should be kept separate in any regulatory developments.

8 TENDER PROCESS

Ultimately the aim should be for a fully liberalised market in ground handling thereby removing the need for tender selection. The Directive should provide a stronger role for the Airport User Committee in the tender selection process subject to safeguards being put in place to prevent dominant carriers' unduly influencing decisions. ERA does not oppose the extension of the contract period for ground handling providers being extended beyond 7 years. The award of a contract should be based on an objective review of the services that will be provided by the tendering party and not on the basis of financial gain for the airport.

7 SELF HANDLING

The Directive should allow any operator the option to self handle where it can demonstrate that it is capable of doing so. This would provide the maximum opportunity for choice and flexibility by operators to reduce costs and ensure quality. In general, the interest in self-handling appears to be decreasing and it can therefore be assumed that a fully liberalised self-handling market will have minimal consequences in practice.

8 CENTRALISED INFRASTRUCTURE FEES

The EU Directive should provide greater oversight and transparency of centralised infrastructure fees and the services and benefits provided to airline operators. The rate of return for centralised infrastructure should be low in recognition that it is provided on a monopoly basis. As airport structures and organisations differ greatly throughout member states it will be difficult to define centralised infrastructure on a common basis for the purposes of comparing infrastructure fees at different airports. Centralised infrastructures should be monitored by an independent body which is separate from the airport operator (eg the Airport Users' Committee) to minimise the possibility of a dominant position by an airport operator which also provides handling services. The independent body should also ensure that minimum industry (eg IATA) defined performance standards are met.

9 SEPARATION OF ACCOUNTS FOR GROUND HANDLING PROVIDERS

The Directive should require more precision on how the accounts of ground handling providers are separated so as to increase transparency and reduce the risk of cross subsidisation. However any change in regulation should be carefully assessed to ensure that the cost and regulatory burden of any new requirements does not outweigh the benefits. The aim should be to ensure an open and fair competitive market for ground handling, respecting commercial confidence, without the possibility for cross subsidisation.

10 SELECTION OF AIRPORT COMPANIES PROVIDING GROUND HANDLING SERVICES

The Directive should require airport companies which provide ground handling services to be subject to the same tender requirements as third party handlers. By not being subject to the same tender procedure it potentially provides the airport company with a competitive advantage against other providers. However it should be recognised that airport companies offering handling services and some other essential services (eg emergency management) may provide important synergies with the airport operator that may benefit both airline operators and other handlers. These synergies should be considered in any new proposals. The ultimate aim should be a fully liberalised market in ground handling services.

11 LIMITATIONS IN PHYSICAL SPACE FOR GROUND HANDLERS

The Directive should not introduce a harmonised European system to manage physical space at airports. Any proposals for change should be supported with clear evidence of a problem as, in practice, this problem appears to rarely occur, is very site specific and can be managed without regulation. Consideration could be given to ensuring that handling companies work together to pool equipment so as to further reduce the likely occurrence of a space being a limiting factor. In addition the airport operator should be required to demonstrate that space at the airport has been fairly allocated between all parties involved in ground handling.

12 THRESHOLD FOR COMPETITION TO BE INTRODUCED AND THE NUMBER OF SUPPLIERS WHICH CAN PROVIDE SERVICES

The general aim of any revision to the Directive should be to lead to full liberalisation of the market, greater competition for ground handling services, more choice and better value for air operators. As such the Directive should be amended to fully liberalise the market in ground handling services at EU airports with the objective of creating a fully liberalised market.

13 INDEPENDENCE OF THE AIRPORT USERS' COMMITTEE

The Directive should be strengthened to ensure the full independence of the Airport Users' Committee. In addition, safeguards should be put in place to prevent dominant carriers' unduly influencing decisions taken by the Airport Users' Committee.

14 GROUND DE ICING SERVICES

Whilst it may not be appropriate to include provisions on de icing in the EU Directive on ground handling which focuses on market access, competition and liberalisation of ground handling services there is a need for further safety regulation of ground de-icing services. Specifically there is a need for minimum requirements in the following areas (note this list is not exhaustive):

- application of fluid (including final checks)
- initial and recurrent training requirements for personnel
- use of English by personnel involved in de icing
- equipment standards
- fluid availability.

Additional comment:

In compiling the above comments, ERA has consulted with its members, but the positions stated in no way take precedence over individual comments submitted by our members to the EC.

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