



EUROPEAN COMMISSION

Brussels, 1.12.2011
SEC(2011) 1440 final

COMMISSION STAFF WORKING PAPER
SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

**Proposal for a Regulation of the European Parliament and of the Council
on groundhandling services at Union airports and repealing Council Directive 96/67/EC**

{COM(2011) 824 final}
{SEC(2011) 1439 final}

1. PROBLEM DEFINITION

1.1. Context and identified problems

Groundhandling services cover all ground-based aviation-related activities carried out for airlines at airports and are a key function in the aviation chain. Even though groundhandling is not necessarily visible, the passenger experience at airports and in the air relies on quality groundhandling services, whether for example to ensure the proper reception of passengers at the airport, the material comfort in the plane, or the pre-conditions for safe and secure flights. The efficient provision of groundhandling services is therefore important for airport operators, airlines and passengers, and is crucial for the efficient use of air transport infrastructure. It also contributes significantly to the performance of the aviation system in general.

Council Directive 96/67/EC (the Directive) was adopted in 1996 to regulate access to the groundhandling market, with a view to opening the market so as to lower the prices paid by airlines and increase the quality of these services. It was one of the key initiatives accompanying the single aviation market in the mid-1990s.

The Directive defined 11 categories of groundhandling services:

- 1 Ground administration and supervision;
- 2 Passenger handling;
- 3 Baggage handling;
- 4 Freight and mail handling;
- 5 Ramp handling;
- 6 Aircraft services ;
- 7 Fuel and oil handling;
- 8 Aircraft maintenance;
- 9 Flight operations and crew administration;
- 10 Surface transport;
- 11 Catering services.

Among these, the following may be subject to restrictions (so-called "restricted services"):

- Baggage handling;
- Freight and mail handling, as regards the physical handling of freight and mail, whether incoming, outgoing or being transferred, between the air terminal and the aircraft;
- Ramp handling;

- Fuel and oil handling.

By 1 January 2001, the following legal framework was in place under the Directive:

	Airports open to commercial traffic <u>under 2 million</u> passengers or 50,000 tons of freight per year	Airports open to commercial traffic <u>over 2 million</u> passengers or 50,000 tons of freight per year	
		All services except "restricted services"	"Restricted services"
Self-handling (handling by airlines' own account)	Free access to the market for all categories*	Free access to the market*	Free access* OR Restriction to at least 2 self-handling airlines per category of services (selected on the basis of relevant, objective, transparent and non-discriminatory criteria)*
Third-party handling	Not covered by the Directive	Free access to the market*	Free access* OR Restriction to 2 third-party handlers per category of services (selected on the basis of a tender procedure published in the OJEU). At least one third-party handler has to be independent from the airport and the dominant carrier. <i>**possibility to restrict the number of third-party handlers on the basis of space/capacity limitations to 1 if request for exemption approved by EC.</i>

*Possibility to restrict the number of providers on the basis of space/capacity limitations (if request for exemption approved by EC).

Since 1996, the Commission has closely monitored the application of the Directive, which has turned up a number of implementation and enforcement issues. In addition, the context in which groundhandling services are provided has changed dramatically (36%¹ increase in air traffic and, over the last decade, successive crises such as economic downturn, volcanic eruption and massive snowfall etc.). In this changing environment, consultations and evaluations of the Directive have revealed the existence of two problems:

1.1.1. Problem 1: The provision of groundhandling services today is not efficient enough

Airlines today do not enjoy cost-efficient groundhandling services at all EU airports, due to three root causes.

Firstly, the possibility to restrict competition for certain services means that, at some airports, airlines are faced with a limited choice between two providers, for each of the "restricted services", and are not always authorised to self-handle.

Secondly, Europe is characterised by a patchwork of administrative conditions for access to national markets. Each Member State can require its own 'approval', which leads to a diversity of local requirements, obliges groundhandling companies to adapt to each national market and contributes to increasing costs.

Thirdly, new entrants have difficulties entering and growing operations at airport level. At some airports, some local conditions hamper new entrants from competing in a sustainable manner with incumbent suppliers. Such local conditions include: (i) inappropriate legal

¹ Source: Eurocontrol Performance Review Commission.

framework for the management of centralised infrastructures² (CI); (ii) inappropriate legal framework for the separation of accounts for airport operators providing groundhandling services; and (iii) unbalanced tendering procedures for independent handlers.

1.1.2. Problem 2: The overall quality of groundhandling services at airport level is not keeping pace with evolving needs in terms of reliability, resilience, safety and security and the environment

Suboptimal quality at airport level can be observed with regard to reliability of the service (turnaround delays and baggage mishandling), resilience (crisis management), safety and security (incidents and terrorism threats) and the environment (CO2 emissions and glycol).

The insufficient overall quality of groundhandling services can be attributed to two main root causes: (i) insufficient coordination of groundhandling services at the airport (linked to subcontracting practices that affect airport space and operations, the absence of day-to-day supervision of operations, and the lack of performance monitoring/reporting); and (ii) unsatisfactory legal framework for training and transfer of personnel.

1.2. Subsidiarity

Groundhandling is essential to the proper functioning of air transport, in line with the objective of Articles 58 and 90 of the Treaty on the Functioning of the European Union. As the subsidiarity principle applies, EU action on groundhandling has to be justified.

Firstly, the objectives of the proposed action could not be achieved sufficiently by Member States because, as already recognised in 1996, access to the groundhandling market, as part of the common air transport policy, should come within an EU framework.

Secondly, the added-value of EU action stems from the need for airlines to operate in a single aviation market. As their direct subcontractors, groundhandling companies need a level-playing field at EU level.

2. OBJECTIVES OF THE EU INITIATIVE

The general objective of the initiative is to enhance the efficiency and quality of groundhandling services for users (airlines) and end-users (passengers/freight forwarders).

The specific objectives (SO) are:

SO1. Ensure that airlines have an increased choice of groundhandling solutions at EU airport.

SO2. Harmonise and clarify national administrative conditions for market entry (approvals).

SO3. Ensure a level playing field at airport level between groundhandling companies operating under different regulatory regimes.

² I.e. infrastructures "used for the supply of groundhandling services whose complexity, cost or environmental impact does not allow of division or duplication" such as baggage sorting, de-icing, water purification or fuel distribution systems.

SO4. Increase coordination between groundhandling providers at the airport.

SO5. Clarify the legal framework for personnel training and transfer.

3. POLICY OPTIONS

The first possible action could consist in repealing the current Directive. Previous rounds of stakeholder consultations indicate no desire for this. In view of the risk of fragmentation of the internal market and the complexity that would result from different national/local/airport requirements, this option is not pursued further.

Another alternative could consist in strict implementation of the existing, unchanged Directive, coupled with guidance material. This option is not pursued further because at least one of the key root causes (possibility to restrict competition for certain services) cannot be addressed by strict implementation and guidance.

Stakeholder consultations and evaluations have identified a broad set of measures with the potential to address the problem areas identified. None of the single policy measures identified could achieve all the specific objectives.

To solve the identified problems, four distinct policy packages are proposed besides the baseline scenario. Each package tackles the five root causes of the problem. Three packages include measures with a similar intensity (low, medium and high, respectively) across the five areas identified (in order to minimise the 'efficiency/quality' and 'efficiency/working conditions' conflicts). A fourth package presenting medium-intensity measures coupled with high-intensity measures for non-contentious areas is added.

The first policy package (PP1) improves the current system by amending the Directive only as far as necessary and providing guidance wherever possible. It contains the less intense measures identified.

The second package (PP2) seeks to improve the current system with a set of medium intensity measures and is therefore more ambitious than PP1. It takes the form of a Regulation.

The third package (PP3) incorporates high-intensity measures, providing for full harmonisation of the groundhandling market framework, also in the form of a Regulation.

PP2', a PP2 variant incorporating two PP3 measures (on approvals and minimum quality requirements) is the fourth package considered.

The legal instrument chosen for PP2/PP2' and PP3 is a Regulation. As most of the difficulties with the current legal framework are linked to divergent implementations among Member States, this will allow EU-wide rules to be set while leaving some flexibility for Member States, but only where necessary.

	<i>PP1</i>	<i>PP2</i>	<i>PP2'</i>	<i>PP3</i>
<i>Legal instrument</i> →	Directive (+guidance)	Regulation	Regulation	Regulation
<i>Root causes</i> ↓				
1: Possibility to restrict competition for certain groundhandling services	Full opening of the self-handling market	- Full opening of the self-handling market - At large airports, increase to three the minimum number of third party handling providers for the four categories of services that can be restricted.	- Full opening of the self-handling market - At large airports, increase to three the minimum number of third party handling providers for the four categories of services that can be restricted.	Full opening of the self-handling and third-party handling markets (no more tenders)
2: Patchwork of administrative conditions for access to national markets (approvals)	Guidance for Member States on approval requirements	Mutual recognition of approvals with harmonised requirements	Set-up an EU approval	Set-up an EU approval
3: Difficulties for new entrant to enter and grow operations at airport level	a) Clarified definitions in the Directive for centralised infrastructures (CIs)	a) Better management of centralised infrastructures,	a) Better management of centralised infrastructures,	a) Better management of centralised infrastructures;
	b) Clarified definitions in the Directive for separation of accounts	b) Legal separation of airport operators and their groundhandling subsidiaries	b) Legal separation of airport operators and their groundhandling subsidiaries	b) Suppression of the possibility for airport operators to control a groundhandling activity at their own airport
	c) Clarified Airport Users Committee role and definitions in the Directive	c) Improved tender procedure (Airport Users Committee + duration tendered activities).	c) Improved tender procedure (Airport Users Committee + duration tendered activities).	(no c) : no tenders in PP3)
4: Insufficient coordination of groundhandling services at airports	a) Guidance on subcontracting	a) Introduce clarified rules for subcontracting	a) Introduce clarified rules for subcontracting	a) Introduce clarified rules for subcontracting
	b) Harmonised criteria for tenders	b) Harmonised criteria for tenders	b) Harmonised criteria for tenders	(no b) : no tender in PP3)

	c) Guidance on "rules of conduct"	c) Role of the airport operator for ground operations At large airports, airport operator responsible for minimum quality requirements for groundhandlers' operations to be specified in a delegated act	c) Role of the airport operator for ground operations At large airports, minimum quality requirements defined at EU level	c) Role of the airport operator for ground operations At large airports, minimum quality requirements defined at EU level
		d) Reporting obligations on performance of operations to be specified in a delegated act (at large airports)	d) Reporting obligations on performance of operations to be specified in a delegated act (at large airports)	d) Reporting obligations on performance of operations to be specified in a delegated act (at large airports)
5: Unsatisfactory legal framework for training and transfer of personnel	a) Guidance on training	a) Compulsory minimum training of staff	a) Compulsory minimum training of staff	a) Introduce individual staff qualification (licensing) for key staff categories
	b) Consultation of employees' representatives during tenders	b) Allow Member States to impose a requirement to take over staff with similar conditions for services to which access is restricted.	b) Allow Member States to impose a requirement to take over staff with similar conditions for services to which access is restricted.	b) Full take-over of staff with similar conditions in cases of a (partial) loss of activity to a different provider, for all groundhandling services.

4. ASSESSMENT OF IMPACTS

The impacts of the policy packages are summarized below:

Impacts as compared to the Baseline				
	PP1	PP2	PP2'	PP3
Economic impacts				
Impacts on the functioning of the internal market, competition and competitiveness of groundhandling services	VERY LOW POSITIVE	HIGH POSITIVE	HIGH POSITIVE	MEDIUM POSITIVE
Impacts on operating	ZERO	NEUTRAL	NEUTRAL	MEDIUM

Impacts as compared to the Baseline				
	PP1	PP2	PP2'	PP3
costs and conduct of businesses				NEGATIVE
Impacts on small and medium enterprises	ZERO	LOW NEGATIVE	LOW NEGATIVE	MEDIUM NEGATIVE
Impacts on consumers	ZERO	MEDIUM POSITIVE	MEDIUM POSITIVE	LOW POSITIVE
Businesses - administrative burden (AB) after 5 years	ZERO	- €0.61m LOW POSITIVE	- €0.61m LOW POSITIVE	- €0.61m LOW POSITIVE
Public authorities - AB after 5 years	ZERO	- €0,185m LOW POSITIVE	- €0,185m LOW POSITIVE	- €0,185m LOW POSITIVE
Member States	ZERO	- €0.2M	- €1.06m	- €1.06m
European Commission	ZERO	Negligible (+ €0.015m)	+ €0.86m	+ €0.86m
Third countries	VERY LOW POSITIVE	HIGH POSITIVE	HIGH POSITIVE	MEDIUM POSITIVE
EU budget	ZERO	ZERO	€0.86m over 5 years	€0.86m over 5 years
Social impacts				
Employment (number of jobs)	ZERO	- 450 jobs / year in groundhandling	- 450 jobs / year in groundhandling	- 900 jobs/year in groundhandling but new jobs in organisations licensing groundhandling staff
Job quality, workers' health, safety and dignity	VERY LOW POSITIVE	MEDIUM POSITIVE	MEDIUM POSITIVE	VERY HIGH POSITIVE
Environmental impacts				
Impact on quality of groundhandling services	LOW POSITIVE	HIGH POSITIVE	HIGH POSITIVE	HIGH POSITIVE
Impacts on	VERY LOW	NEUTRAL	NEUTRAL	NEUTRAL

Impacts as compared to the Baseline				
	PP1	PP2	PP2'	PP3
simplification of existing legislation	POSITIVE			
Transposition and compliance aspects	LOW NEGATIVE	MEDIUM NEGATIVE	MEDIUM NEGATIVE	HIGH NEGATIVE

5. COMPARISON OF OPTIONS

The policy packages are assessed against the criteria of effectiveness, efficiency and coherence.

From an effectiveness point of view, PP3 offers the highest potential achievement of all specific goals, while PP2 offers a good effectiveness in general. PP1 meets the specific objectives only to a limited extent.

In terms of efficiency, PP3, the most costly, is less efficient than PP2, while PP1 is the cheapest and easiest to implement.

In terms of coherence, the packages are similar.

Effectiveness, efficiency and coherence of the policy packages				
	PP1	PP2	PP2'	PP3
Effectiveness	Limited	Good	Good	Very good
SO1	Limited	Good	Good	Very good
SO2	Very limited	Very good	Very good	Very good
SO3	Limited	Very good	Very good	Excellent
SO4	Limited	Very good	Very good	Very good
SO5	Limited	Good	Good	Very good
Efficiency	Very good	Good	Good	Limited
Coherence	Limited trade-off	Limited trade-off	Limited trade-off	Limited trade-off

PP1 is the least attractive as it does not solve the identified problems.

PP2/PP2' are preferred to PP3:

- The differences in terms of effectiveness (the extent to which problems are solved) between PP2/PP2' and PP3 are limited.

- The differences in terms of impacts are significant: for nearly all criteria, PP2/PP2' improve the situation or limit harmful impacts in a significantly better way than PP3.
- Compared to PP3, PP2/PP2' thus present a better trade-off between effectiveness and acceptable impacts: they achieve the objectives without involving too costly changes.

PP2 and PP2' are very close. Only the impacts of their two differing measures differentiate between them: for both measures, PP2 is better for transposition/compliance aspects (with PP2', more efforts are expected) while PP2' is better for simplification purposes. Considering the key aspect of compliance/enforcement, PP2 is thus recommended.

PP2 opens the groundhandling market moderately, while not damaging working conditions (transfer of staff with similar conditions would be possible where further opening is imposed). PP2 would provide, at a reasonable cost, a more open, fairer groundhandling market, together with better quality and clarified responsibilities in the airport context, and a clarified framework for training and transfer of staff.

6. MONITORING AND EVALUATION

The Commission would evaluate the implementation of the new Regulation five years after its adoption.