

Position Paper

June 2007

AEA POLICY PAPER ON GROUND HANDLING

INTRODUCTION

In accordance with the objectives of the Lisbon Agenda to increase the competitiveness of Europe, a harmonised and integrated EU framework on ground handling would create a level-playing field and ensure efficient functioning of the airport market. The sustainable profitability of European aviation and a rebalance of the inefficiencies in the value chain will depend on a new Directive on ground handling which allows airlines to compete in an open and competitive market without monopolistic cost structures.

Ground handling is one of the only parts of an airport's activity which can be liberalized. The Directive, which was adopted in October 1996 to gradually open up access to this market, was due to be revised no later than 31 December 2001. It is therefore unfortunate that in its so-called 'Airport Package' published on 24th January 2007, the Commission refrained from undertaking a revision of the Directive and published a report on ground handling instead.

AEA welcomes the Commission's assessment of the current situation in the ground handling market, but hopes that this will pave the way for future regulatory action. AEA feels that it is essential that the Directive is reviewed in its entirety, in order to introduce free access to the ground handling market at European airports. As European airlines are faced with unnecessary ground handling restrictions globally, it is important that Europe sets an example in putting an end to these costly practices.

INITIAL STATEMENT

The European aviation industry is in need of a new Directive on ground handling that harmonizes and further liberalises the market, deals with the imbalance in the value chain, is more cost efficient and strengthens the role of users.

PRIORITIES

- Further liberalize the ground handling market by increasing the minimum number of service providers to be admitted at airports;

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- Olympic Airlines
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- SWISS
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- TAROM
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- Strengthen the rights of users with regard to all decisions having an effect on them and taken by an airport or authority in all matters concerning ground handling;
- Enhance cost effectiveness in the ground handling market;
- Address the monopolies of airports.

THE COMMISSION'S FINDINGS

In general, the Commission's report confirms the success of liberalisation without finding evidence of any accompanying negative effects. It is clear that the problems do not arise from improper implementation but from the Directive itself, demonstrating that it is high time for a revision of the Directive. Merely another report is not sufficient to further liberalize the market. Also, the general tone of the EC report is too complacent.

The key findings in the Commission's report are as follows:

- Prices for ground handling have decreased whereas quality has increased and the situation since 1996 has had a positive effect on competition in the European market;
 - This means that liberalisation has had no negative effects on the quality of ground handling services. As airlines are directly affected by any decreases in service quality, they already have an essential interest in adequate quality standards. Apparently even the partial opening up of the ground handling market has generally proved successful and has led to a wider choice and price cuts.
 - Moreover, according to the European JAR-OPS 1 Aviation Regulations airlines are directly liable for all ground handling performed for their flights, and this liability also covers the work of their sub-contractors (the ground handling agents). This is why the European airlines are extremely interested in and concerned about the quality and safety of the ground handling performed by their service providers and would in no case advocate any developments in the handling market where these elements would be surrendered.
 - Experience has shown that increased competition is not incompatible with quality and safety, as we have already been witnessing more advantageous market rates with improved quality.
- Limited opportunities exist for independent ground handlers, especially where they have to compete with airport handlers;
 - This is unacceptable; more third party handlers should be allowed at airports.

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- The charges that have to be paid for centralised infrastructure vary from airport to airport and there are discrepancies between the access fees ground handlers are obliged to pay at airports;
 - AEA insists on the removal of all access fees, in line with the decision of the European Court of Justice in 2006. Any fees levied for the use of general or centralised infrastructure must comply with this decision and be included in the airport’s aviation revenues, as these infrastructures are an integral part of the functioning of the airport.
- No recent data on labour developments were available, so no conclusion could be reached;
 - An erosion of working conditions is not ascertainable. In the course of the liberalisation of the airline sector the variety of products has increased, to the benefit of consumers, while prices have gone down without any adverse effects on working conditions. On the contrary, liberalisation has led to more jobs;
 - Liberalising the airline market has had no negative consequences for safety; it is therefore unrealistic to suppose that opening up the ground handling market will have a negative effect.

THE SIX KEY ELEMENTS OF THE AEA POSITION ON GROUND HANDLING

The AEA position is based on the following key elements that should serve as a foundation for a revision of the Directive:

1. *A further liberalisation of the ground handling market.*

Liberalisation of the ground handling market will lead to a wider choice of third-party handlers at airports as more handlers will be admitted. Ground handling services are key cost elements in a fully liberalised airline industry¹, and AEA supports the principle that there should be no artificial limit on the number of self- and third-party handlers at European airports. However, on very rare occasions the lack of physical space may constitute an exceptional constraint which could limit the number of handlers. In such cases the Member States concerned, in consultation with the users, should evaluate this constraint at each airport based on objective and transparent criteria, although any decision on possible restrictions must be approved by the Commission.

As a minimum step towards further liberalization, an increase in the current minimum number of handlers is necessary, possibly depending on the size of the airport.

2. *Strengthening the role of users*

Where a selection procedure and / or tender is required due to a limitation in the number of handlers, the AEA insists that users must play a key role at all stages of the selection process. In order to maintain a fair balance of power between all airlines, voting powers should adequately reflect the market share of each airline.

¹ Annual reports from some of Europe’s largest airports show that revenues generated by ground handling activities can be almost as important as the airport’s general aviation revenues.

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3. A cost-efficient system without concession / access fees and with fewer administrative burdens for potential handlers.

One of the objectives of the present directive is to help reduce the operating costs of airline companies and improve the quality of service provided to airport users. Therefore, the AEA insists on the removal of all so-called concession / access fees, in line with the decision of the European Court of Justice in 2006². Any fees levied for the use of general or centralised infrastructure must comply with this decision and be included in the airport's aviation revenues, as these infrastructures are an integral part of the functioning of the airport. Possibilities for airports and public authorities to introduce rules and legislation which could act as a barrier to the ground handling market should be strictly limited. Any standards or minimum requirements should only be put in place with the agreement of the users, so as to make sure that no favours for the incumbent airport service providers exist. Given the high level of investment in ground handling equipment and personnel training, the AEA believes that the 7-year licence period, which is applied when the number of suppliers of ramp services is limited, should be a minimum unless very special circumstances prevail at an airport.

Since the introduction of the ground handling Directive the airlines have at a number of European airports experienced new charges for the so called centralised infrastructure which were previously already covered by other charges paid either by the airline or the passenger (and which have not been dropped or lowered). This development has been typical for airports which have lost their handling monopoly and has helped them to collect additional revenue for services which were already paid for.

4. Self handling and a level playing field

Airlines have a natural right to handle their passengers and aircraft; therefore the AEA requests that the definition of self-handling be extended at least to cover franchised flights. Experience has shown that some Member States have interpreted the Directive in a restrictive manner that goes against the basic objective of liberalization. Any inflexibility and bureaucracy should be eliminated. Where sub-contracting takes place, airlines should be subject to the same quality audits as other handlers. In addition, AEA does not believe that special provisions for so-called integrators are justified; all users should have the same rights and obligations.

All market participants should be allowed to sub-contract. However, the AEA recognizes that sub-contracting must not be abused or lead to a deterioration in quality or safety standards. The main contractor should therefore be held liable for services performed by the sub-contractor.

² Referring to Article 16 (3) of the Directive, in October 2003 the Court ruled that the managing body of an airport should not make access to the ground handling market in the airport subject to payment by a supplier of ground handling services or self-handler of an access fee as consideration for the grant of a commercial opportunity, in addition to the fee payable by that supplier or self-handler for the use of the airport installations. On the other hand, the airport is entitled to collect a fee for the use of airport installations, of an amount to be determined according to the criteria laid down in Article 16(3) of the Directive, taking into account the interest of the airport in making a profit.

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5. Unclear definition of centralised infrastructure and favouritism in the selection procedure distort competition:

The definition of centralised infrastructure should be more restrictive. One of the most obvious shortcomings of the present Directive is a bias in favour of airports-handlers. The airport is allowed to retain a monopoly on a number of services, thereby restricting access to the relevant market, especially for independent ground handling companies. Therefore, in order to ensure fairer and more transparent access users must have more input on the definition of what constitutes centralised infrastructure. In this context the tendering of central infrastructure operations would be a viable option. For contracts of a limited duration, airports should be submitted to the same selection procedure and contract limits as other handlers.

6. More than mere separation of airport accounts is necessary to ensure transparency and avoid cross-subsidisation

AEA fully supports the suggestion that airports should establish separate legal entities to carry out ground handling activities. These legal entities should also be subject to the selection procedure and should be treated in the same way as other handlers. Where there are legal obstacles to setting up these entities in some Member States, the AEA proposes a transitional step, in order to strengthen the separation of accounts through enhanced transparency. Also, more stringent rules are needed to ensure a proper separation between ground handling and other monopolistic activities.