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on Groundhandling services at Union airports

Committee on Transport and Tourism

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United in diversity

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Commission's proposal

Since 1996 the provision of ground-handling services at airports in the European Union has been regulated by Council Directive 96/67/EC of the 15th of October 1996 on access to the groundhandling market at Community airports. The Directive aims at opening up the market, increasing choices for airlines, reducing their operating costs and improving the quality of service. This is achieved mainly by allowing the airlines to self-handle and by providing for free access to third party handling, both subject to certain exceptions where it can be limited due to specific space and capacity constraints. Wherever exceptions apply, Member States must provide necessary measures for the organisation of a selection (tender) procedure to authorise a maximum of two groundhandling service providers to operate at a given airport, depending on its traffic throughout.

Although, according to the Commission, the Directive achieved its main objectives, rapid growth in air traffic since 1996 has caused a "dramatic change in the framework conditions for groundhandling services" and revealed a series of shortcomings, namely in respect to its uniform implementation across Europe, level of market opening, standardised training requirements for staff and coordination at the airport level. The current proposal intends to address those shortcomings by:

- (1) Increasing the choice of groundhandling providers for the airlines
- (2) Harmonising, and clarifying, national administrative conditions for approvals
- (3) Ensuring a level playing field at the airport level between groundhandling companies operating under different regulatory regimes;
- (4) Increasing coordination between groundhandling providers at the airport (airport operators as ground coordinators within the EU aviation network as part of the gate-to-gate approach);
- (5) Clarifying legal framework for training of staff and transfer of staff.

Rapporteur's point of view

The Rapporteur supports the Commission in its efforts to improve and further liberalise the groundhandling services market, however, he is of the opinion that the proposed measures are often too conservative and will not add the necessary value that is expected from the new regulation. He is convinced that the following aspects are the key to the efficient, resilient, and competitive groundhandling services in Europe.

1. Full opening of the self-handling market (Art.5) and an increase in the minimum number of service suppliers at large airports (art.6)

According to the proposal,

- every airport user should be free to self-handle at any airport,
- authorised third-party suppliers of groundhandling services shall have free access to the market at the airports whose annual traffic has been no less than 2 million passenger movements or 50000 tonnes of freight for at least three years and
- the number of authorised third-party suppliers of groundhandling services for restricted

services mentioned in Article 6(2) (mainly "airside services") should not be less than two suppliers at any airport of no less than 2 million passenger movements or 50000 tonnes of freight or not less than three suppliers at large airports with no less than 5 million passengers annually or 100 000 tonnes of freight.

The Rapporteur agrees with the proposed framework and considers even further opening necessary, given that the air traffic in Europe will continue to grow. The end users of the groundhandling services are primarily the airlines and they should be offered the biggest possible choice in order to stay competitive and to meet the increasingly high expectations of their clients.

Furthermore, the Rapporteur wants to propose that the number of authorised third-party suppliers of groundhandling services **should not be limited to less than four at the largest European airports**. For this category of airports, the threshold could be set at:

- a) 15 million passengers annually or 200 000 tonnes of freight which represents about 28 of the biggest European airports or
- b) 20 million passengers annually or 250 000 tonnes of freight which represents about of the 17 biggest European airports or
- c) 25 million passengers annually or 300 000 tonnes of freight which represents about 11 of the biggest European airports.

2. The definition of self-handling (Art.2 e)), sub-contracting (Art2 h)) and clarified rules for subcontracting (Art.35) as key points to further liberalisation and increased accessibility of the market

The Rapporteur considers the definitions of self-handling (Article 2 (e)) and subcontracting (Article 2 (h)) as key points to further liberalisation and increased accessibility of the groundhandling services market. Airports and airport users should all be allowed to subcontract. Historically, the reason behind forming the strategic airline alliances has been the need to increase the competitiveness of its members on the global market and, given the difficult current economic context, it has become a very popular business model. The European legislation should recognise it and should not restrain the airport users from exploiting the full potential that such models offer. In addition, many airports have signalled that unlimited self-handling for the airlines may in fact not be possible due to space and infrastructure capacity constraints. The Rapporteur therefore believes that including the alliance, into the definition of self-handling, could help to solve this problem. Par consequent, one of the following two options is proposed:

- a) (Art.35 para.2) ***Self-handling airport users may subcontract groundhandling services provided that:***
 - ***sub-contracting supplier has a valid approval issued in accordance with Chapter IV of the current regulation on Approval Procedures***
 - ***no "cascade subcontracting" is allowed***
- b) (Art.2 para.e)) Among themselves, the airport users, are not to be deemed third parties where:

- one holds a majority holding in the other; or
- a single body has a majority holding in each; *or*
- *they belong to the same alliance; and/or*
- *they are bound by a codeshare agreement;*

The abovementioned right to subcontract should also apply to airports, as very often the contestable market is too small for the airports to provide profitable groundhandling services by using their own staff and resources.

3. Simplified tender procedure

The proposal provides for an increase of the period for which a supplier of restricted groundhandling services is selected via tender procedure to a minimum of seven, and a maximum of ten years respectively (Art. 10.1). It also specifies the details of the tender procedure for the suppliers of restricted services (Art.7-9), puts forward a concept of consultation of the Airport Users' Committee and specifies the rules of procedure for the latter (Art. 4) in order to avoid conflicts of interest for self-handling airlines.

The Rapporteur believes that the selection procedure in Article 7 should be simplified, and instead of the consultation procedure described in Article 8, voting rights should be granted to the members of the Airport Users' Committee in order to allow them to choose the suppliers from the best short-listed candidates. Airport users that apply to provide the third-party handling or which operate their own self-handling shall not be allowed to vote.

4. Legal separation of airports and their groundhandling activities (Art.29)

According to the Commission, the current system of separation of accounts for groundhandling airports is very difficult to monitor and is felt to be insufficient to ensure fair competition. The proposal calls for airports to keep their groundhandling activities in a legal entity separate from their airport management activities. The Rapporteur believes that the airports providing groundhandling services should separate their groundhandling units from the rest of its operations and considers three alternatives:

- a) full legal separation as stated by the Commission in the proposal (Art.29);
- b) simple separation of accounts, in line with the current Directive; or
- c) so-called functional separation. The latter could be based on the following exemplary minimum criteria:

- creation of separate business unit,
- obligation to supply all airport-users with the services under non-discrimination conditions
- separation of staff : staff are not permitted to share their working time between functionally separated units
- restrictions on the movement of managers between functionally separated units
- physical separation of places of work
- limits to the flow of information between functionally separated units
- separation of accounts

5. Rules of conduct (Article 31) and minimum quality requirements for groundhandling operations at airports (Art.32)

The proposal provides for the setting of rules of conduct and minimum quality standards for the performance of groundhandling services to be met by all suppliers of groundhandling services and selfhandling airport users.

The Rapporteur supports the provisions of Article 31 on the rules of conduct. He also believes that the minimum quality standards are necessary to ensure appropriate synchronisation for the actions of multiple groundhandling services suppliers at airports and to learn from the negative experience of the ash cloud and winter in 2010. However, the following two options could be considered with regards to their adoption:

- a) minimum quality standards to be set by the airports and to comply with specifications set by the Commission in delegated acts (as proposed in Article 32);or
- b) minimum quality standards to be set by the airports after the approval of the national authority or jointly with the national authority and, consequently, no specifications set by the Commission in delegated acts required.

6. Social aspects of the regulation

The Rapporteur acknowledges that following the request of the EMPL Committee to apply Rule 50 of the Rules of Procedure to this regulation, the Conference of Presidents has decided to grant the EMPL exclusive competence in deciding on Recital 31 and Articles 12, 20, 34, 39 (l)(m)(n)(o) and 40 and shared competence on Recitals 17 and 28. The Rapporteur respects this decision and therefore intends neither to discuss the matters falling under the exclusive EMPL competence in the TRAN committee nor include them in his draft report. He also advises members of the TRAN committee wishing to amend the parts of the text falling under the exclusive competence of the EMPL committee to table their amendments directly to the committee for employment.

Conclusions:

The Rapporteur agrees with the main objectives of the Commission's proposal aiming at further liberalisation of the groundhandling services market. He welcomes the provisions on mutual recognition of approvals at the European level and minimum quality standards and he fully supports the full opening of the market for the self-handling services and third-party handling. He is also in favour of the increased number of suppliers selected for the "restricted services" from two to three at large airports, however, he proposes to introduce a fourth supplier of these services at the largest airports in Europe.

In parallel, in the Rapporteur's view, the definitions of self-handling and/or sub-contracting needs to be reviewed in order to provide for an increased choice for the airport users in selecting their groundhandling services suppliers. For the same purpose, the selection procedure should be simplified and the airport users, as the main customers of the groundhandling services, should be empowered to have more decision-making weight when deciding on the outcome of the selection procedure.

Furthermore, a functional separation should be considered alongside legal separation and simple separation of accounts in order to provide for a fair and undistorted competition in groundhandling services between airports, airlines and third-party handlers.

Finally, the Rapporteur supports the idea of setting rules of conduct and minimum quality standards to achieve the best possible quality and coordination of groundhandling services at the airports, although it has to be considered whether these should be set in compliance with the Commission's delegated acts or in line with the airports deciding jointly with the national authorities.