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*****I** **REPORT**

on the proposal for a regulation of the European Parliament and of the Council
on common rules for the operation of air transport services in the Community
(recast)
(COM(2006)0396 – C6-0248/2006 – 2006/0130(COD))

Committee on Transport and Tourism

Rapporteur: Arūnas Degutis

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on common rules for the operation of air transport services in the Community (recast) (COM(2006)0396 – C6-0248/2006 – 2006/0130(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0396)¹,
 - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0248/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0178/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Recital 6

(6) To ensure a consistent monitoring of the compliance with the requirements of the operating licences of all Community air carriers, licensing authorities should proceed to regular assessments of the air carriers' financial situation. Therefore, the latter should provide sufficient information on their financial situation, especially in the first two years of their existence as these are particularly critical for the survival of an air carrier on the market.

(6) To ensure a consistent monitoring of the compliance with the requirements of the operating licences of all Community air carriers, licensing authorities should proceed to regular assessments of the air carriers' financial situation. Therefore, the latter should provide sufficient information on their financial situation, especially in the first two years of their existence as these are particularly critical for the survival of an air carrier on the market. ***In order to avoid a distortion of competition arising from the application of different rules at national***

¹ Not yet published in OJ.

level, it is necessary to ensure transparency and submit the financial situation of all EU carriers to the joint control of the Commission and Member States.

Amendment 2
Article 1, paragraph 1

1. This Regulation regulates the licensing of Community air carriers, the right of Community air carriers to operate air services within the Community, and the pricing of air services within the Community.

1. This Regulation regulates the licensing of Community air carriers, the right of Community air carriers to operate air services within the Community, and the pricing of air services ***operated*** within the Community. ***Provisions on information and non-discrimination in pricing shall apply to flights departing from an airport situated in the territory of a Member State and to flights contracted by a Community carrier departing from an airport located in a third country to an airport situated in the territory of a Member State, unless air carriers are subject to the same obligations in that third country.***

Justification

Clarification.

The aim of the provisions on information and non-discrimination in pricing is the protection of passengers. Extension of the scope of these provisions would ensure more effective application.

Amendment 3
Article 2, point (15)

(15) 'regional airport' means an airport fulfilling at least one of the criteria set out in Annex II ; ***deleted***

Justification

Any definition of "regional airport" for the purpose of public service obligations will include some airports in economically viable regions and exclude some airports in regions needing economic or social support. PSOs are justified only to airports which serve regions with economic or social needs. Therefore this definition should be deleted.

Amendment 4
Article 2, point (19)

(19) 'air fares' means the prices expressed in euros or in local currency to be paid by passengers to air carriers or their agents for the carriage of those passengers and of their baggage on air services and any conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services **and including all applicable taxes, charges and fees**;

(19) 'air fares' means the prices expressed in euros or in local currency to be paid by passengers to air carriers or their agents for the carriage of those passengers and of their baggage on air services and any conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services;

Justification

It is proposed to maintain IATA definition of fares and to require the inclusion of taxes, charges and fees in Article 24.

Amendment 5
Article 2, point (20)

(20) 'air rates' means the prices expressed in euros or in local currency to be paid for the carriage of cargo and the conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services **and including all applicable taxes, charges and fees**;

(20) 'air rates' means the prices expressed in euros or in local currency to be paid for the carriage of cargo and the conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services;

Justification

It is proposed to maintain IATA definition of rates and to require the inclusion of taxes, charges and fees in Article 24.

Amendment 6
Article 2, point (24 a) (new)

(24a) 'dry lease agreement' means an agreement between air carriers where the aircraft is operated under the AOC of the lessee;

Justification

It is suggested to insert the definition in line with EU-OPS.

Amendment 7
Article 2, point (24 b) (new)

(24b) 'wet lease agreement' means an agreement between air carriers where the aircraft is operated under the AOC of the lessor;

Justification

It is suggested to insert the definition in line with EU-OPS.

Amendment 8
Article 2, point (24 c) (new)

(24c) 'Principal place of business' means the place of the head office and, if any, the registered office of a Community air carrier in a Member State within, to or from which the Community air carrier carries out a significant part of its operational activities.

Justification

This article needs to be read in conjunction with Article 4, paragraph (a). The term 'operational activities' is broader than 'air services', and includes non-flight operations such as rostering and maintenance. 'Air services' would have the impact of excluding from the scope of the regulation legitimate Community air carriers such as global cargo carriers who operate worldwide with a substantial number of their flights outside of the Community. This change would also apply to Amendment 10- Article 4.

Amendment 9
Article 3, paragraph 1, subparagraph 1

No undertaking shall be permitted to carry by air passengers, mail and/or cargo for remuneration and/or hire within the Community unless it has been granted the

No undertaking ***established in the Community*** shall be permitted to carry by air passengers, mail and/or cargo for remuneration and/or hire within the

appropriate operating licence.

Community unless it has been granted the appropriate operating licence.

Justification

It should be made clear that third country carriers are not excluded from operating intra-Community air services.

Amendment 10

Article 3, paragraph 3, point (b)

(b) local flights not involving carriage between different airports.

(b) local flights not involving carriage **of passengers, mail and/or cargo** between different airports.

Amendment 11

Article 4, point (a)

(a) its **head office and, if any, registered office are** located in the Community and it **carries out** the largest part of its **operational activities in** the Community;

(a) its **principal place of business is** located in the Community and it **operates** the largest part of its **air services within, to or from** the Community;

Justification

In order to avoid misunderstandings the text should be clarified and the terms defined in Article 2 should be used.

Amendment 12

Article 4, point (c)

(c) where the licence is applied for to the authority of a Member State, its **head office and, if any, registered office are** located in that Member State, **it carries out a substantial part of its operational activities in that Member State and, where the AOC is issued by a national authority, the same Member State is responsible for the oversight of the AOC**;

(c) where the licence is applied for to the authority of a Member State, its **principal place of business is** located in that Member State;

Justification

It is suggested simplifying the text by using the term defined in Article 2 and to remove the

criterion concerning AOC to Article 6.

Amendment 13
Article 4, point (c a) (new)

(ca) it has one or more aircraft at its disposal as a result of ownership or a dry lease agreement;

Justification

This criterion is in the Article 13 of the Commission proposal, but as this is a condition for granting an operating licence, it should be inserted into Article 4.

Amendment 14
Article 4, point (d)

(d) its main occupation is ***air transport*** in isolation or combined with any other commercial operation of aircraft or the repair and maintenance of aircraft;

(d) its main occupation is ***to operate air services*** in isolation or combined with any other commercial operation of aircraft or the repair and maintenance of aircraft;

Justification

The term defined in Article 2 should be used.

Amendment 15
Article 4, point (h a) (new)

(ha) it provides evidence that it has sufficient insurance cover to be able to refund sums paid and to cover the costs of repatriating passengers in the event of it being unable to operate booked flights because of insolvency or revocation of its operating licence.

Justification

It needs to be ensured that passengers do not suffer any further financial damage in the event of the airline's insolvency.

Amendment 16
Article 5, paragraph 1, point (b a) (new)

***(ba) its net capital is at least EUR
100 000.***

Justification

The amount of net capital is an important indicator of the financial situation of the companies. Therefore every air carrier shall satisfy a minimum criterion in this regard.

Amendment 17
Article 5, paragraph 2

2. For the purpose of paragraph 1, each applicant shall submit a business plan for, at least, the first three years of operation. The business plan shall also detail the applicant's financial links with any other commercial activities in which the applicant is engaged either directly or through related undertakings. The applicant shall also provide all relevant information; in particular the data referred to in point 1 of Annex I.

2. For the purpose of paragraph 1, each applicant shall submit a business plan for, at least, the first three years of operation. The business plan shall also detail the applicant's financial links with any other commercial activities in which the applicant is engaged either directly or through related undertakings. The applicant shall also provide all relevant information; in particular the data referred to in point 1 of Annex I. ***Each applicant shall establish provisions to avoid or mitigate the negative social consequences of bankruptcy.***

Justification

The Commission proposal does not provide any provision regarding the negative social consequences of airline bankruptcy.

Amendment 18
Article 5, paragraph 3, subparagraph 1

Paragraphs 1 and 2, shall not apply to air carriers exclusively engaged in operations with aircraft of less than 10 tonnes MTOW (Maximum Take Off Weight) and/or less than 20 seats. Such air carriers shall at all times be able to demonstrate that their net capital is at least EUR 100,000 or to provide, when required by the licensing authority, the information relevant for the

Paragraphs 1 and 2, shall not apply to air carriers exclusively engaged in operations with aircraft of less than 10 tonnes MTOW (Maximum Take Off Weight) and/or *with* less than 20 seats. Such air carriers shall at all times be able to demonstrate that their net capital is at least EUR 100,000 or to provide, when required by the ***competent*** licensing authority, the information

purposes of article 9(2).

relevant for the purposes of article 9(2).

Justification

Wording should be brought in line with the definitions.

Amendment 19
Article 6, paragraph 2

2. Any modification in the AOC of a Community air carrier shall be reflected in its operating licence.

2. Any modification in the AOC of a Community air carrier shall be reflected, **where appropriate**, in its operating licence.

Justification

The AOC is a document that is frequently adapted to reflect changes in an operator's fleet. There is no need for adapting the operating licence after any modification of the AOC.

Amendment 20
Article 6, paragraph 2 a (new)

2a. Where the AOC is granted by a national authority, the competent authorities of that Member State shall be responsible for granting, refusing, revoking or suspending the AOC and the operating licence of a Community carrier.

Justification

The responsibility for granting and overseeing AOCs and operating licences should be clarified.

Amendment 21
Article 8, paragraph 2, subparagraph 1

The competent licensing authority shall closely monitor the compliance with the requirements of this chapter. It shall in any case review the compliance with these requirements two years after a new operating licence has been granted, when a potential problem has been suspected, or at the request of the Commission.

The competent licensing authority shall closely monitor compliance with the requirements of this Chapter. It shall in any case review compliance with these requirements **in the following cases**:

(a) two years after a new operating licence has been granted, **or**

(b) when a potential problem has been suspected, or

(c) at the request of the Commission.

Justification

It should be clarified that the compliance should be reviewed in any of the three above-mentioned cases.

Amendment 22

Article 8, paragraph 3, point (b)

(b) has ceased its operation for more than **three** months.

(b) has ceased its operation for more than **six** months.

Justification

The time limit of 6 months from cessation of operations is established practice and should be retained.

Amendment 23

Article 8, paragraph 5, point (a)

(a) in advance of any plans for a substantial change in the scale of its activities;

(a) in advance of any plans to **operate new scheduled services or non-scheduled services to a continent or a world region not previously served, change the type or number of aircraft used or to** substantially change the scale of its activities;

Justification

The current version of the Regulation 2407/92 specifies more clearly the cases, when the competent licensing authority shall be notified. Therefore its text should be kept.

Amendment 24

Article 8, paragraph 8, subparagraph 1

Paragraphs 4, 5 and 6 shall not apply to air carriers exclusively engaged in operations with aircraft of less than 10 tonnes MTOW (Maximum Take Off Weight) and/or less than 20 seats. Such air carriers shall at all times be able to demonstrate that their net capital is at least EUR 100000 or to

Paragraphs 4, 5 and 6 shall not apply to air carriers exclusively engaged in operations with aircraft of less than 10 tonnes MTOW (Maximum Take Off Weight) and/or *with* less than 20 seats. Such air carriers shall at all times be able to demonstrate that their net capital is at least EUR 100000 or to

provide, when required by the licensing authority, the information relevant for the purposes of article 9(2).

provide, when required by the **competent** licensing authority, the information relevant for the purposes of article 9(2).

Justification

Wording should be brought in line with definitions.

Amendment 25

Article 9, paragraph 1, first subparagraph

The competent licensing authority shall suspend or revoke the operating licence if **it is no longer satisfied** that the Community air carrier **can** meet its actual and potential obligations for a 12-month period.

The competent licensing authority shall suspend or revoke the operating licence if **there are reasonable grounds for suspecting** that the Community air carrier **cannot** meet its actual and potential obligations for a 12-month period.

Justification

Revocation or suspension on the grounds that the authority is "no longer satisfied" that the air carrier can meet its obligations is legally untenable. Objective and readily understandable evidence is required, such as would meet the customary criteria for "reasonable suspicion".

Amendment 26

Article 9, paragraph 1, subparagraph 2

The competent licensing authority may grant a temporary licence, not exceeding 12 months, pending financial reorganisation of the Community air carrier provided that this temporary licence reflects any changes to the AOC and that there is a realistic prospect of a satisfactory financial reconstruction within that time period.

The competent licensing authority may grant a temporary licence, not exceeding 12 months, pending financial reorganisation of the Community air carrier provided **that safety is not at risk**, that this temporary licence reflects any changes to the AOC and that there is a realistic prospect of a satisfactory financial reconstruction within that time period.

Justification

Compliance with the safety regulations should be one of the explicit conditions to be required for granting the temporary licence.

Amendment 27

Article 9, paragraph 2, subparagraph 1

Whenever there are clear indications that

Whenever there are clear indications that

financial problems exist or when insolvency or similar proceedings are opened against **an** air carrier licensed by it the competent licensing authority shall without delay make an in depth assessment of the financial situation and on the basis of its findings review the status of the operating licence in compliance with this article within a time period of three months.

financial problems exist or when insolvency or similar proceedings are opened against **a Community** air carrier licensed by it, the competent licensing authority shall without delay make an in depth assessment of the financial situation and on the basis of its findings review the status of the operating licence in compliance with this article within a time period of three months.

Justification

Clarification.

Amendment 28

Article 9, paragraph 3, subparagraph 3

The competent licensing authority shall inform the Commission of the default of the air carrier to communicate its audited accounts within the six months time limit and of the subsequent actions it takes.

The competent licensing authority shall inform the Commission of the default of the **Community** air carrier to communicate its audited accounts within the six months time limit and of the subsequent actions it takes.

Justification

Clarification.

Amendment 29

Article 12, paragraph 1

1. Without prejudice to Article 13(2), aircraft used by a Community air carrier shall be registered ***in the national register of the Member State issuing the operating licence, or*** within the Community.

1. Without prejudice to Article 13(2), aircraft used by a Community air carrier shall be registered within the Community. ***The Member State whose competent licensing authority is responsible for granting the operating licence of the Community air carrier may require such aircraft to be registered in its national register.***

Justification

The Commission proposal can cause safety problems. It would potentially fragment safety oversight and blur lines of accountability. It is important that Member States may continue to

require their licensed operators to place their aircraft on the home register.

Amendment 30
Article 13, paragraph 1, subparagraph 1

Ownership of aircraft shall not be a condition for granting or maintaining an operating licence. ***deleted***

Justification

Since this is a condition for granting an operating licence, it should be removed to Article 4.

Amendment 31
Article 13, paragraph 2, subparagraph 1

2. In the case of short-term lease agreements to meet temporary needs of a Community air carrier, or otherwise in exceptional circumstances, the competent licensing authority may grant waivers to the requirement of registration provided for in Article 12(1). ***In any case no Community air carrier shall be granted a waiver in order to meet a temporary need or exceptional circumstance of more than six months in duration, although a waiver may be renewed once only for a second non-consecutive period of up to six months.***

2. In the case of short-term *wet* lease agreements to meet temporary needs of a Community air carrier, or otherwise in exceptional circumstances the competent licensing authority may grant waivers to the requirement of registration provided for in Article 12(1) ***provided that:***
(a) the Community air carrier can justify such leasing on the basis of an exceptional need, in which case a waiver may be granted for a period of up to seven months, that may, in exceptional circumstances, be renewed once only for a second period of up to seven months; or
(b) the Community air carrier demonstrates that leasing is necessary to satisfy seasonal capacity needs, which cannot reasonably be satisfied through leasing aircraft registered in accordance with Article 12(1), in which case the waiver may be granted for a period of up to seven months, that may be renewed; or
(c) the Community air carrier demonstrates that leasing is necessary to overcome unforeseen operational difficulties, such as technical problems, and it is not reasonable to lease aircraft registered in accordance with Article 12(1), in which case the waiver shall be of a limited duration which is

strictly necessary for overcoming the difficulties.

Amendment 32

Article 13, paragraph 2, subparagraph 2

In case of leasing of aircraft with crew (wet-leasing), such waivers shall be subject to the existence of a valid agreement providing for reciprocity as regards wet-leasing between the Member State concerned or the Community and the third country of registration of the leased aircraft.

Such waivers shall be subject to the existence of a valid agreement providing for reciprocity as regards wet-leasing between the Member State concerned or the Community and the third country of registration of the leased aircraft.

Justification

The Commission's concerns about social and safety standards apply only to the area of wet leasing.

Amendment 33

Article 13, paragraph 4

4. The competent licensing authority shall not approve agreements leasing aircraft with crew to an air carrier to which it has granted an operating licence unless that authority has determined and declared in writing to the air carrier in question that safety standards equivalent to those imposed in the relevant Community law are met.

4. The competent licensing authority shall not approve agreements leasing aircraft with *or without* crew to an air carrier to which it has granted an operating licence unless that authority has determined and declared in writing to the air carrier in question that *all* safety standards equivalent to those imposed in the relevant Community law are met.

Justification

Safety standards are not only in the case of wet leasing important, but also in the case of dry leasing.

Amendment 34

Article 14 a (new)

Article 14a
Rights of defence

The competent licensing authority and the Commission shall ensure that, when adopting a decision to suspend or revoke the operating licence of a Community air carrier, the Community air carrier concerned is given the opportunity of being heard, taking into account the need, in some cases, for an urgency procedure.

Justification

Airlines judged to be financially unsound should be entitled to being heard before irreversible damage is done to their business.

Amendment 35
Article 14 b (new)

Article 14b
Social legislation

With respect to employees of a Community air carrier operating air services from an operational base outside the territory of the Member State where that Community air carrier has its principal place of business, Member States shall ensure the proper application of Community and national social legislation.

Justification

The operation of bases other than country of origin has created problems as to the determination of the applicable laws to crews on the employment. In order to solve this problem a clear provision should be introduced in this regard.

Amendment 36
Article 15, paragraph 5

5. Notwithstanding the provisions of bilateral agreements between Member States, and subject to the Community

5. Notwithstanding the provisions of bilateral agreements between Member States, and subject to the Community

competition rules applicable to undertakings, Community air carriers shall be permitted by the Member State(s) concerned to combine air services and to enter into code share arrangements on air services to, from or via any airport in their territory from or to any point(s) in third countries.

competition rules applicable to undertakings **and to the provisions of bilateral agreements between Member States and third countries**, Community air carriers shall be permitted by the Member State(s) concerned to combine air services and to enter into code share arrangements **with any air carrier** on air services to, from or via any airport in their territory from or to any point(s) in third countries.

Justification

The amendment aims at specifying that the liberalization will be applied exclusively within EU and to Community carriers without modifying the existing bilateral agreement with third countries. The carriers of third countries will be authorized only if they have the underlying rights in the air services agreements in order to respect the reciprocity principle.

Amendment 37

Article 16, paragraph 1, subparagraph 1

A Member State, following consultations with the other Member States concerned and after having informed the Commission and air carriers operating on the route, may impose a public service obligation in respect of scheduled air services to **a regional** airport in its territory, any such route being considered vital for the economic development of the region **in** which the airport **is located**. That obligation shall be imposed only to the extent necessary to ensure on that route the minimum provision of scheduled air services satisfying fixed standards of continuity, regularity, pricing or minimum capacity, which standards air carriers would not assume if they were solely considering their commercial interest.

A Member State, following consultations with the other Member States concerned and after having informed the Commission, **the airports concerned** and air carriers operating on the route, may impose a public service obligation in respect of scheduled air services to **an** airport in its territory, any such route being considered vital for the economic **and social** development of the region which the airport **serves**. That obligation shall be imposed only to the extent necessary to ensure on that route the minimum provision of scheduled air services satisfying fixed standards of continuity, regularity, pricing or minimum capacity, which standards air carriers would not assume if they were solely considering their commercial interest.

Justification

As the stated purpose of a public service obligation is to provide services on a route

"considered vital for economic development of the region", any airport serving a region in need of economic development should be considered suitable for a public service obligation route. Any definition of "regional airport" for the purpose of public service obligations will include some airports in economically viable regions and exclude some airports in regions needing economic or social support. Therefore the term "regional airport" should be avoided. Furthermore the inclusion of airports serving regions with social needs is very important.

Airports as well as airlines are affected by the introduction of public service obligations, and should accordingly have the same right to be consulted.

Amendment 38

Article 16, paragraph 6, subparagraph 1

6. When a Member State wishes to impose a public service obligation, it shall communicate the complete text of the envisaged imposition of the public service obligation to the Commission, to the other Member States concerned and to the air carriers operating the route in question.

6. When a Member State wishes to impose a public service obligation, it shall communicate the complete text of the envisaged imposition of the public service obligation to the Commission, to the other Member States concerned, **to the airports concerned** and to the air carriers operating the route in question.

Justification

Airports as well as airlines are affected by the introduction of public service obligations, and should accordingly have the same right to be consulted.

Amendment 39

Article 19, paragraph 2, subparagraph 1

2. A Member State, after consultation of the air carriers concerned, may regulate, without discrimination among destinations inside the Community or on grounds of nationality or identity of air carriers, the distribution of air traffic between airports satisfying the following conditions:

2. A Member State, after consultation of the air carriers **and airports** concerned, may regulate, without discrimination among destinations inside the Community or on grounds of nationality or identity of air carriers, the distribution of air traffic between airports satisfying the following conditions:

Justification

Airports as well as airlines are affected by the introduction of public service obligations, and should accordingly have the same right to be consulted.

Amendment 40

Article 19, paragraph 2, point (a)

(a) the airports serve the same city or conurbation;

(a) the airports serve the same city or *serve a* conurbation ***in which they are all situated***;

Justification

For clarification. Alternatively a journey time by public transport could be stated.

Amendment 41
Article 19, paragraph 2, point (b)

(b) the airports are served by an adequate transport infrastructure; and

(b) the airports are served by an adequate transport infrastructure ***making it possible to arrive at the airport, using public transport, within an hour***; and

Justification

The Commission text needs to be made clearer and more specific in order to avoid air traffic distribution being extended too far.

Amendment 42
Article 19, paragraph 2, point (c)

(c) the airports and the city or conurbation they shall serve ***are linked*** by frequent, reliable and efficient public transport services.

(c) the airports ***are linked to one another and to*** the city or conurbation they shall serve by frequent, reliable and efficient public transport services.

Justification

For clarification. Alternatively a journey time by public transport could be stated.

Amendment 43
Article 21, introductory part

Without prejudice to ***Article 23***, this Chapter shall not apply to:

Without prejudice to ***Articles 23 and 24***, this Chapter shall not apply to:

Justification

Third country carriers and PSO services should also be subject to the rules on price transparency.

Amendment 44

Article 23

Article 23

deleted

Price leadership

Without prejudice to agreements concluded by the Community with a third country, for air services between Community airports, only Community air carriers shall be entitled to introduce new products or lower air fares than the ones existing for identical products.

Justification

The requirement of price leadership is outdated. There is no need for it any more.

Amendment 45

Article 24, paragraph -1 (new)

-1. This Article shall apply to flights departing from an airport situated in the territory of a Member State and to flights contracted by a Community carrier departing from an airport located in a third country to an airport situated in the territory of a Member State, unless air carriers are subject to the same obligations in that third country.

Justification

The aim of the provisions on information and non-discrimination in pricing is the protection of passengers. Extension of the scope of these provisions would ensure more effective application.

Amendment 46

Article 24, paragraph 1

1. Air carriers operating within the Community shall provide the general public with comprehensive information on their air fares and rates and the conditions attached.

1. Air carriers operating within the Community shall provide the general public with comprehensive information on their air fares and rates ***in accordance with Article 2(19) and (20)*** and the conditions attached,

and on all applicable taxes, non-avoidable charges, surcharges and fees levied by them for the benefit of third parties.

Air fares published in any form, including on the Internet, which are addressed directly or indirectly to the travelling public shall include all applicable taxes, non-avoidable charges, surcharges and fees known at the time of publication. Air fares shall not incorporate costs not actually incurred by air carriers.

Optional price supplements shall be communicated in a clear, transparent and unambiguous way at the start of any booking process and their acceptance by the passenger should be on an "opt-in" basis. Implied agreements to accept such supplements shall be null and void.

All costs which are not part of the air fare and which are not levied by air carriers operating within the Community must be comprehensively advertised by the "ticket seller" within the meaning of Article 2 (d) of Regulation 2111/2005.

Amendment 47

Article 24, paragraph 2

2. Air carriers shall **set** air fares without any discrimination based on the nationality or the place of residence of the passenger or on the place of establishment of the travel agent within the Community.

2. Air carriers shall **allow access to** air fares without any discrimination based on the nationality or the place of residence of the passenger or on the place of establishment of the travel agent within the Community.

An air carrier may not impose rules on passengers and travel agencies serving, in practice, to restrict their free and equal access to air fares.

Justification

The segmentation of prices should be possible, but the access to air fares without

discrimination should be ensured.

The present wording would not be sufficient to prevent all possible cases of discrimination based on a passenger's place of residence.

Amendment 48
Article 24, paragraph 2 a (new)

2a. For the implementation of the obligations set out in paragraphs 1 and 2, air carriers shall advertise their air fares and rates and the conditions attached, and all applicable taxes, charges and fees levied by them for the benefit of third parties, using the following categories:

- taxes and other state charges and duties,***
- air traffic control charges,***
- charges, duties, fees and other costs for the benefit of the airlines,***
- fees, levies, charges and other costs for the benefit of the airport operators,***

Justification

The end price payable by the consumer may include cost factors which cannot be controlled or advertised by the air carrier (e.g. ticket agency charges). The airlines' obligation to provide information should therefore be confined to the costs they levy themselves.

The regulation should also clearly define the categories into which the various cost factors should be broken down.

Amendment 49
Article 24, paragraph 2 b (new)

2b. Consumers should be provided with a full breakdown of any taxes, fees and charges added to the ticket price.

Justification

Air passengers must be treated like other consumers and thus have a right on clear and full information of the price they finally should pay. Especially internet booking has to be considered, as they are often the only possibility of booking with low-cost carriers.

Amendment 50
Article 24 a (new)

Article 24a
Transparency in charging

Where airport or on-board security costs are included in the price of an air ticket, those costs shall be shown separately on the ticket or otherwise indicated to the passenger. Security taxes and charges, whether levied by Member States or by air carriers or entities, shall be transparent and shall be used exclusively to meet airport or onboard aircraft security costs.

Justification

Security charges are on the rise, and the consumer has a right to know how high they are, and where they are used for.

Amendment 51
Article 24 b (new)

Article 24b
Sanctions

Member States shall ensure compliance with the rules set out in this Chapter and shall lay down sanctions for infringements thereof. Those sanctions shall be effective, proportionate and dissuasive.

Justification

The Commission document does not provide any sanction if the rules on pricing are not applied.

Amendment 52
Article 26, paragraph 1

1. Member States and the Commission shall cooperate in applying this Regulation.

1. Member States and the Commission shall cooperate in applying **and monitoring** this Regulation.

Justification

Constant monitoring is necessary fully involving all stakeholders workers representatives

included.

Amendment 53
Annex II

ANNEX II

deleted

**Definition of regional airports for the
purpose of Article 16**

*Are considered to be regional airports, all
airports that fulfil at least one of the
following criteria:*

*(a) Annual traffic volume does not exceed
900000 passenger movements annually;*

*(b) Annual traffic volume does not exceed
50000 tonnes freight throughput
annually;*

*(c) The airport is located on an island of a
Member State;*

Justification

Any definition of "regional airport" for the purpose of public service obligations will include some airports in economically viable regions and exclude some airports in regions needing economic or social support. PSOs are justified only to airports which serve regions with economic or social needs. Therefore this definition should be deleted.

EXPLANATORY STATEMENT

1. Background

The third package of the internal aviation -consisting of the Council regulations No 2407/92, 2408/92 and 2409/92- constituted the final stage in the liberalisation of the air transport. The measures were phased in from January 1993, when the Regulations entered into force, to April 1997, when cabotage was freed in the Community.

Regulation (EEC) No 2407/92 lays down the rules applicable in all Member States for issuing and withdrawing licences to and from air carriers, thereby establishing the concept of Community air carrier without discrimination within the Community. It also spells out the conditions under which Community air carriers may lease aircraft registered outside the Community.

Regulation (EEC) No 2408/92 establishes the basic principle of free access for Community air carriers to intra-Community air routes and lays down rules on possible derogations from this principle, particularly for public service obligations and situations creating serious congestion or environmental problems. The same Regulation also contains criteria for defining an "airport system" and distributing traffic between the individual airports in the same system.

Regulation (EEC) No 2409/92 liberalises air fares, while also putting in place a procedure allowing the Member States both to avoid excessively high fares detrimental to users and to halt any downward spiral which could jeopardise the financial balance of all carriers.

As a consequence of the introduction of the third package unprecedented expansion of air transport could be observed in Europe, old monopolies have been swept away, intra-Community cabotage has been introduced, and competition has come into play, particularly on fares, to the benefit of consumers. European aviation has moved from a highly regulated market, based on bilateral agreements to a highly competitive single market.

However, after several years of implementing the measures in the third package, it has become clear that some measures are obsolete, while others are poorly applied or need to be clarified, revised or deleted.

2. Content of the proposal

This proposal intends to integrate and modify the three existing, above-mentioned Regulations. The recast of the third package aims at simplification of the legislation, removal of obsolete parts, but at the same time it introduces in some cases stricter requirements.

Article 4 of the regulation introduces new aspects concerning the question which licensing authority shall issue the operating licence. Not the principal place of business of the air carrier is determining any more but the head office and the place, where the airline carries out a substantial part of its operational activities and where the carrier's air operator's certificate (AOC) is being overseen.

Article 5 of the regulation introduces more stringent financial conditions for granting an operating licence, while article 8 strengthens the conditions for the validity of this licence. Furthermore the regulation establishes the competent licensing authority's duty to review the compliance with the requirements in certain cases.

The regulation also states that any modification in the AOC shall be reflected in the operating licence. (Article 6)

Article 9 of the proposal establishes the competent licensing authority's duty to suspend or revoke the operating licence if it is no longer satisfied that the air carrier can meet its actual and potential obligations for a 12-month period.

Article 13 of the regulation covers leasing. As a new requirement the regulation limits the duration of any type of leasing (wet and dry) to 6 months. Air carriers may be allowed to lease aircraft registered in third countries for a second non-consecutive period of six months. In the case of wet-leasing even an agreement providing for reciprocity will be necessary.

Article 14 of the proposal introduces the Commission's competence to examine the compliance with the requirements of the regulation and take a decision to suspend or revoke the licence if necessary.

Article 15 of the regulation covers intra-community air services and overflight. Any restrictions to the freedom of Community air carriers to provide intra-EU air services arising from bilateral agreements between Member States are superseded. Community air carriers shall be permitted to combine air services and to enter into code share arrangements on air services to, from and via any airport in their territory from or to any point(s) in third countries.

In contrary the regulation states that intra-EU traffic rights of third country carriers shall be subject to an agreement concluded by the Community with the third country without prejudice to already existing bilateral agreements. Transiting the territory of the EU for third country carriers is only possible when the third country is party to the International Air Services Transit Agreement or concluded an agreement to that effect with the Community without prejudice to already existing bilateral agreements.

Articles 16, 17 and 18 cover the public service obligations. The regulation states that PSO may be imposed on a route to a regional airport and it gives a clear definition for a regional airport. The concession period is increased from three years to four years. The rules governing information and publication obligations are clarified and simplified. The regulation also introduces an emergency procedure in order to handle sudden interruptions of service on routes with PSO. As a new element the Commission may request Member States to provide different analyses in order to justify the need for PSO.

Regarding traffic distribution Article 19 of the proposal introduces a one-step procedure instead of the current two-stage procedure. The Member States may regulate the distribution of air traffic between airports only after the approval of the Commission. The expression "airport system" is not used any more. The regulation specifies the definition of conurbation.

Articles 21-24 of the regulation cover price transparency and discrimination. In order to avoid current practice of some air carriers, i.e. publishing air fares without any taxes and charges,

the regulation states that air fares shall include all applicable taxes, charges and fees. Furthermore the general public must be provided with comprehensive information on air fares and rates and the conditions attached. The proposal establishes the air carriers' obligation to set air fares without any discrimination based on the nationality or the place of residence of the passenger or on the place of establishment of the travel agent within the Community.

3. Rapporteur's comments

Your rapporteur considers that the Commission proposal is sensible, he agrees with the necessity and aim of the recast. However, he takes the view that it should be amended in some important areas.

Leasing

Currently the Member States' practices with regard to leasing are different. This can lead to market distortion and raises social and safety concerns. Therefore it cannot be questioned that new common requirements should be introduced. However, the rules proposed in Article 13 go too far and do not take into account the characteristics of some airlines, especially seasonality. It is desirable to find a sensible balance of interest between social and safety concerns on the one hand and the smooth functioning of airlines on the other hand. Therefore it is proposed to increase the time limit of leasing to 7 months and not to limit the frequency.

Price transparency

Your rapporteur supports the Commission's objective to put an end to airlines' practices of publishing air fares that exclude fees, taxes, charges and surcharges. However he considers that airlines' obligation to publish inclusive air fares should be more clearly expressed. Furthermore it is proposed to extend the scope of these provisions in order to ensure more effective application of price transparency.

Social aspects

The operation of bases other than country of origin has created problems as to the determination of the applicable law on employment. In order to solve this problem it is proposed to introduce a clear provision in this regard.

Passenger protection

The Commission proposal does not provide any effective scheme to ensure that passengers do not endure adverse consequences in the case of airline bankruptcy, such as not being reimbursed for non-performed transport or being stranded abroad. Your rapporteur considers that provisions aiming at passenger protection should be included into the regulation.

Public service obligation and regional airport

Your rapporteur believes that any definition of "regional airport" for the purpose of public service obligations will include some airports in economically viable regions and exclude some airports in regions needing economic or social support. Since PSOs are justified only to airports which serve regions with economic or social needs, the definition of regional airport should be deleted.

In addition to the above-mentioned key points several definitions, conditions should be clarified in order to avoid any misunderstanding and divergent application.

Intra-Community air services

In contrary to the above-mentioned subjects, where several modifications were suggested, your rapporteur firmly believes that in the case of intra-Community air services the proposed extension of Commission competence should be supported. 1st and 5th freedom rights can be negotiated more efficiently by the Commission than by the Member States separately, what is also demonstrated by the agreement with Russia concerning Siberian overflight rights. Your rapporteur does not share the doubts of some stakeholders concerning subsidiarity. Therefore it is suggested accepting Article 15 as it is proposed by the Commission.

PROCEDURE

Title	Common rules for the operation of air transport services in the Community (recast)		
References	COM(2006)0396 - C6-0248/2006 - 2006/0130(COD)		
Date submitted to Parliament	18.7.2006		
Committee responsible Date announced in plenary	TRAN 5.9.2006		
Committee(s) asked for opinion(s) Date announced in plenary	EMPL 5.9.2006	ENVI 5.9.2006	IMCO 5.9.2006
Not delivering opinions Date of decision	EMPL 12.9.2006	ENVI 14.9.2006	IMCO 4.10.2006
Rapporteur(s) Date appointed	Arūnas Degutis 13.9.2006		
Discussed in committee	19.12.2006	28.2.2007	10.4.2007
Date adopted	8.5.2007		
Result of final vote	+: -: 0:	32 3 0	
Members present for the final vote	Inés Ayala Sender, Etelka Barsi-Pataky, Jean-Louis Bourlanges, Michael Cramer, Arūnas Degutis, Christine De Veyrac, Saïd El Khadraoui, Robert Evans, Emanuel Jardim Fernandes, Mathieu Grosch, Georg Jarzembowski, Stanisław Jałowiecki, Dieter-Lebrecht Koch, Bogusław Liberadzki, Eva Lichtenberger, Erik Meijer, Willi Piecyk, Reinhard Rack, Luca Romagnoli, Gilles Savary, Brian Simpson, Dirk Sterckx, Ulrich Stockmann, Silvia-Adriana Țicău, Georgios Toussas, Yannick Vaugrenard		
Substitute(s) present for the final vote	Zsolt László Becsey, Pedro Guerreiro, Antonio López-Istúriz White, Salvatore Tatarella, Ari Vatanen, Corien Wortmann-Kool		
Substitute(s) under Rule 178(2) present for the final vote	Árpád Duka-Zólyomi, Den Dover, Béla Glattfelder		