Groundhandling services at Union airports

2011/0397(COD) - 01/12/2011 - Legislative proposal

PURPOSE: to improve the efficiency and the overall quality of groundhandling services at Union airports for end-users (airlines) and final users (passengers and freight forwarders).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: according to Commission and stakeholders' estimations, the revenues of groundhandling (all categories included) **amount globally to EUR 50 billion**. It is estimated that the sector employs at least 60,000 persons in Europe. The cost linked to groundhandling services for airlines represents 5 to 12% of operating costs.

In 1996 the European Community adopted **Council Directive 96/67/EC** on access to the groundhandling market at Community airports. The Directive was a first step towards the gradual opening and harmonisation of access to the groundhandling market. It would appear from the consultation organised by the Commission and the evaluation of the Directive in force that the **current legal framework is no longer fit for purpose**. The problem identified is twofold: (i) the provision of groundhandling services is not efficient enough due to barriers to entry and expansion, and (ii) the overall quality of groundhandling services is not keeping pace with evolving needs in terms of reliability, resilience, safety and security and the environment.

It is therefore necessary to **improve the efficiency and the overall quality of groundhandling services** with the following objectives:

- ensure airlines have an increased choice of groundhandling solutions at EU airports;
- harmonise and clarify national administrative conditions for market entry (approvals);
- ensure a level playing field at airport level between groundhandling companies operating under different regulatory regimes;
- increase 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);
- clarify the legal framework for training of staff and transfer of staff.

IMPACT ASSESSMENT: **four policy packages** (in addition to the option to keep the existing framework) were considered to assess how Directive 96/67/EC could be revised

- **Policy package PP1** would improve the system via minimal Directive amendments and by providing guidance where possible.
- **Policy package PP2** seeks to improve the current system through a more ambitious set of measures.
- **Policy package PP3** seeks to improve the current system with high intensity policy measures, providing full harmonisation of the groundhandling market legal framework.

Only the policy package **PP2** fully satisfies the identified objectives as demonstrated in the impact assessment.

LEGAL BASIS: Article 100 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal concerns the adoption of a regulation on groundhandling services at EU airports. The new regulation is intended to replace and repeal the existing Directive 96/67/EC. The main elements of the proposal are as follows:

- **Full opening of the self-handling market and increase in the minimum number of service providers to three at large airports:** every airport user should be allowed to self-handle. Moreover, the number of authorised third-party suppliers of groundhandling services should not be less than three suppliers at large airports with not less than 5 million passengers annually or 100 000 tonnes of freight.
- **Mutual recognition of approvals with harmonised requirements:** the mutual recognition of national approvals with harmonised requirements will reduce administrative costs for operators and reduce barriers to entry.
- **Better management of centralised infrastructures:** the proposal includes a clear legal framework for the definition of centralised infrastructure and for the fees to be charged to suppliers of groundhandling services and self-handling airlines for the centralised infrastructure.
- **Legal separation of airports and their groundhandling activities**: the proposal provides that if an airport is itself a provider of groundhandling services, it should be ensured that the groundhandling services provided by the airport do not unduly benefit from the airport management activities of the airport.
- **Improved tender procedure**: the proposal provides for an increase of the maximum duration for which a supplier of restricted groundhandling services is selected from 7 to 10 years. It contains further specifications on the details of the selection procedure for the suppliers of restricted services to ensure a harmonious application and ensure that selected companies are indeed those best suited to operate groundhandling services. In the selection of the supplier for restricted groundhandling services the AUC needs to be consulted. The proposal contains provisions for rules of procedure for the Airport Users' Committee to avoid any conflict of interest for airlines also providing groundhandling services.
- **Clarified rules for subcontracting:** the proposal contains clear rules for subcontracting allowing suppliers of groundhandling services to subcontract but limiting subcontracting by airports and self-handling airlines to situations of *force majeure* and prohibiting cascade subcontracting.
- **Role of the managing body of the airport in the coordination of ground services:** the managing body of the airport should be responsible for the proper coordination of groundhandling activities at its airport. Moreover, at large airports, which are particularly important for the European air transport network, the managing body of the airport needs to ensure that these operations are coordinated through an airport CDM and through a proper contingency plan.
- **Responsibility of airport operators for minimum quality requirements for groundhandling operations to be defined in delegated act**: the proposal provides the setting of minimum quality standards for the performance of groundhandling services to be met by all suppliers of groundhandling service and self-handling airport users.
- **Reporting obligations on performance of groundhandling services (to be defined in delegated act):** suppliers of groundhandling services and self-handling airport users should be required to report on the performance of their groundhandling services.
- **Compulsory minimum training for staff:** the proposal introduces minimum training requirements for all suppliers of groundhandling services and self-handling airlines to ensure the safety and security of operations and to create a level playing field among operators.
- **Possibility for Member States to impose a requirement to take over staff with same conditions where there is a tender procedure:** the tender system appears to encourage turnover of staff. Discontinuity of staff can have a detrimental effect on the quality of groundhandling services. It is therefore appropriate to clarify the rules on the takeover of staff beyond the application of Directive 2001/23/EC on transfers of undertakings and to enable Member States to ensure adequate employment and working conditions.

BUDGETARY IMPACT: the proposal has no impact on the EU’s budget.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.