

Opinion of the European Economic and Social Committee 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) 396 final — 2006/0130 (COD)

(2007/C 175/20)

On 15 September 2006, the Council decided to consult the European Economic and Social Committee, under Article 80(2) of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 May 2007. The rapporteur was **Mr McDonogh**.

At its 436th plenary session, held on 30 and 31 May 2007 (meeting of 31 May 2007), the European Economic and Social Committee adopted the following opinion by 58 votes with 4 abstentions:

Recommendations:

1. All PSO airlines should be required to enter into a performance bond.
2. There should be a Service Level Agreement between the airports served by the PSO flights and the Contracting State.
3. Higher compensation than that outlined in Regulation [EC] 261/2004 should be available to PSO passengers, as no other alternative transport may be available.
4. The tender process for PSO *should* have a minimum of two *tenders*.
5. For European flights, the return leg should cost the same as the outward leg. If there is a considerable difference between the outward and homeward leg this must be justified.
6. PSO tickets should be refundable as all other airline tickets are, subject to conditions.
7. Fare calculations should be clearly displayed on tickets like taxes, airport charges, etc.
8. a) The approach to intermodality should ensure a level playing field for all modes of transport;
b) Aviation bears a disproportionate burden in security costs. This shall be rectified.
9. The reference to high-speed trains should remain as in some Member States they do not exist.
10. The Commission should carry out audits to see that the national aviation regulators are carrying out their duties in the even handed and fair manner and that none of their actions distort competition.

11. One stop security as originally proposed by the Commission should be introduced for those passing through European airports.

12. This should include a modification of passenger screening at airports to include a fast track system (biometrics) to facilitate regular passengers.

13. Tickets purchased in advance of 1 month should have a cooling-off period to allow customers to cancel them without penalty within 48 hours. In the event of a cancellation of a ticket the customer should also be entitled to a refund of all air taxes.

1. Introduction

1.1 More than ten years after the entry into force the third package has largely played its role, allowing the unprecedented expansion of air transport in Europe. Old monopolies have been swept away, intra-Community cabotage has been introduced, and competition in all markets has intensified to the benefit of consumers.

1.2 Despite this success, most of the Community's airlines continue to suffer from overcapacity and from the excessive fragmentation of the market. The inconsistent application of the third package across the Member States and the lingering restrictions on intra-Community air services translate into the following effects:

1.3 Absence of a level-playing field: market efficiency is affected by competition distortions (e.g. varying application with regard to the requirements of the operating licence; discrimination between EU carriers on the basis of nationality; discriminatory treatment concerning routes to third countries; etc.).

1.4 Inconsistent application of rules governing the leasing of aircraft from third countries with crew, with consequent distortions of competition and social implications.

1.5 Passengers not reaping the full benefits of the internal market because of the lack of price transparency or discriminatory practices on the basis of the place of residence.

2. Existing provisions in the area of the proposal

2.1 The proposal aims at revising and consolidating the regulations.

2.2 The proposal reinforces the internal market by promoting a more competitive environment with European air carriers capable of taking on their international competitors.

2.3 Some of the proposed changes may have an environmental impact, since they will tend to encourage further expansion of air traffic. The EESC is conscious that the continuing growth of air traffic is becoming a significant cause of growth of greenhouse gas emissions and is currently preparing an opinion on that subject. Whatever needs to be done in that context, however, the Committee supports the reinforcement of a level playing field in the airline sector as proposed in the Commission present proposal.

3. Impact assessment

3.1 The revision of the third package does not intend to radically change the legal framework, but rather to make a series of adjustments in order to address the identified problems.

3.2 The 'no change' option leaves unaltered the present three regulations composing the third package of the internal aviation market.

3.3 The 'change' option includes a series of changes to the third package in order to ensure the homogenous and effective application of its rules. This should include a modification of passenger screening at airports to include a fast track system (biometrics) to facilitate regular passengers.

3.4 The draft regulation will ensure an efficient and homogeneous application of community legislation for the internal aviation market via stricter and more precise application criteria (e.g. for operating licences, leasing of aircraft, public service obligations and traffic distribution rules) It also reinforces the internal market by lifting still existing restrictions on the provision of air services stemming from old bilateral agreements between Member States and by conferring to the community

the right to negotiate intra-community traffic rights with third countries. It enhances consumer rights by promoting price transparency and non-discrimination.

3.5 The experience with the third package on the internal aviation market has shown that the legislation is not interpreted and applied in a uniform way across Member States. This situation hinders the existence of a true level playing field between community air carriers.

3.6 The proposal provides for simplification of legislation.

4. Detailed explanation of the proposal

4.1 Reinforcement of the requirements for the granting and revoking of an operating licence. The financial health of the airlines is being checked with different degrees of severity depending on the Member State that issued the licence.

4.2 The proposal requires Member States to reinforce the supervision of the operating licences and to suspend or revoke it when the requirements of the regulation are no longer met (articles 5 to 10).

4.3 The proposal has been drafted in such a way as to allow for the possibility of a future extension of the competencies of the European Aviation Agency (EASA) for safety oversight and/or for licensing so as to ensure the most efficient and consistent supervision of the air carriers.

5. The proposal strengthens the requirements for the leasing of aircraft

5.1 Wet leasing of aircraft from third countries provides EU airlines with important flexibility. However, this practice has some disadvantages and can entail severe safety risks, as has been shown by several recent accidents.

5.2 The safety assessment of leased aircraft from third countries is not pursued with the same rigour in all Member States. Therefore, it is crucial that Article 13 (wet/dry leasing) is fully enforced by the licensing authority.

6. The proposal clarifies the rules applicable to public service obligations (PSO)

6.1 The rules applicable to public service obligations have been revised in order to lighten the administrative burden, to avoid excessive recourse to PSO and to attract more competitors in the tender procedures.

6.2 To avoid excessive recourse to PSO, the Commission may require in individual cases the production of an economic report explaining the context of the PSO and the assessment of their adequacy should be performed with particular care when they are intended to be imposed on routes that are already been served by **high speed** rail services with a travel time of less than three hours. The tender procedures have been modified by extending the maximum concession period from three to four years.

7. Competition

7.1 To ensure coherence between the internal market and its external aspects, including those of the Single European Sky, access by airlines of third countries to the intra-Community market should be managed in a coherent manner through negotiations at Community level traffic rights with third countries.

7.2 Remaining restrictions from existing bilateral agreements between Member States will be lifted, ensuring non-discrimination in respect of code sharing and pricing by Community air carriers on routes to third countries involving points in Member States other than their own.

8. The proposal promotes price transparency for passengers and fair price behaviour

8.1 The publication of fares that exclude taxes, charges and even fuel surcharges has become a widespread practice that hampers price transparency. Insufficient price transparency leads to distortions of competition and therefore consumers face on average higher fares. The Commission also still observes cases of discrimination on the basis of the place of residence of the passenger.

8.2 In the proposal, air fares have to include all applicable taxes, charges and fees and air carriers shall provide the general public with comprehensive information on their air fares and rates.

8.3 Air fares shall be set without discrimination on the basis of place of residence or the nationality of the passenger within the Community. Furthermore, for the access to a carriers air fares, there may be no discrimination on the basis of the place of establishment of the travel agent.

8.4 Air fares should be clearly stated. At present, many extra charges are being added on which can significantly increase the total fare; particularly noteworthy among these are airport charges which have been known to be inflated by the airlines in order to improve their yield.

Within Europe, fares are often distorted by currency differences although this should be less now with the introduction of the Euro. Still it is hard to explain how it is cheaper to fly to places like London, Rome, Madrid, and not vice versa.

This difference in fares between outward and return journeys is repeated throughout Europe on most routes.

8.5 We fully agree with the proposal that EASA be properly funded and staffed and be given the power of mandatory regulation in all EU countries. This we had proposed in our earlier document ⁽¹⁾.

8.6 PSOs are necessary and still desirable to encourage services to more isolated areas. However, the rules and regulations for airlines getting the PSOs have been very lax. **Although the PSO states the number of flights and the seating capacity of aircraft, there appears to be no penalties imposed for bad time keeping or delayed flights.**

Brussels, 31 May 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁾ OJ C 309, 16.12.2006, p. 51-54.