

**Final Report**



Study on the quality and efficiency of  
ground handling services at EU  
airports as a result of the  
implementation of Council Directive  
96/67/EC

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**Report to European Commission**

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## Glossary

Country	National administration	Airport	Airport operator
Austria	ACAA	Vienna	FWAG
Belgium	Ministry of Communications	Brussels	BIAC
Denmark	DCAA	Copenhagen	Copenhagen Airports
Finland	FCAA	Helsinki	FCAA
France	DGAC	Lyon	Chamber of Commerce
		Nice	Chamber of Commerce
		Paris-CDG <sup>1</sup>	ADP
		Toulouse	Chamber of Commerce
Germany	Ministry of Transport, Building and Housing	Frankfurt	Fraport
		Hamburg	FHG
		Munich	FMG
		Nuremberg	FNG
		Stuttgart	FSG
Greece	HCAA	Athens	AIA
		Heraklion	HCAA
Ireland	Commission for Aviation Regulation	Dublin	Aer Rianta
Italy	ENAC	Milan-MXP <sup>1</sup>	SEA
		Naples	GESAC
		Rome-FCO <sup>1</sup>	ADR
Luxembourg	LCAA	Luxembourg	LCAA
Netherlands	DCAA	Amsterdam	Schiphol Group
Portugal	INAC	Faro	ANA
		Lisbon	ANA
Spain	DGAC	Barcelona	Aena
		Fuerteventura	Aena
		Madrid	Aena
		Palma de Mallorca	Aena
		Tenerife Sur	Aena
Sweden	SCAA	Stockholm	SCAA
UK	UK CAA	Belfast	BIAL
		Birmingham	Birmingham Airport
		London-LHR <sup>1</sup>	BAA Heathrow
		Manchester	Manchester Airport

Representative bodies	
ACI Europe	Airports Council International
AEA	Association of European Airlines
EEA	European Express Association
ERA	European Regions Airline Association
ETF	European Transport Workers' Federation
IACA	International Air Carrier Association
IAHA	International Aviation Handlers Association
IATA	International Air Transport Association

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<sup>1</sup> London Heathrow, Rome Fiumicino, Milan Malpensa and Paris Charles de Gaulle.

# 1 Introduction

## Introduction

1.1 SH&E Limited was appointed in December 2001 by the European Commission (the Commission) to undertake a factual review of the impact of Council Directive 96/67/EC (the Directive) on the liberalisation of the ground handling market at Community airports. This review was intended to allow the Commission to prepare a report and to draw policy conclusions based on the information gathered during this study.

1.2 The objective of the Directive is to eliminate restrictions on freedom to provide ground handling services in the Community and thereby open up and encourage competition. In turn, this should help reduce the operating costs of airlines and improve the quality of service provided to airport users<sup>2</sup>.

1.3 In the Commission's letter of introduction that SH&E provided to stakeholders in the course of its consultations, the Commission indicated that the objective of the study was "to supply the Commission with information relating to the application of the Directive – in particular concerning the number of handlers at the airport and the criteria on basis of which handlers have been selected – and the consequences of the opening up, especially in terms of employment, prices and quality of service".

1.4 This Final Report is submitted in accordance with the requirement for such a report ten months after contract signature. A Draft Final Report was discussed with stakeholders on the Commission's premises on 6 September, and a number of comments were received both during the meeting and subsequently.

## Summary of approach

1.5 We have followed the work programme presented in our proposal and interim report, which has consisted of meetings with relevant stakeholders, visits to 33 airports (as specified in the terms of reference for this study) and distribution of a postal survey to another 48 airports. We have based our discussions on the questionnaire issued with these terms of reference and have refined and adopted it for use during the airport visits and as a postal survey.

1.6 We commenced our study with a meeting with Commission officials in Brussels on 15 January 2002. Later that same day we held a meeting with a large number of representatives of stakeholders invited by the Commission. These individuals were drawn from airlines, their associations (AEA, IACA, EEA), airport operators, their association (ACI Europe), representatives of workers and their European organisation (ETF), and independent handlers and their association (IAHA).

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<sup>2</sup> Under Article 2 of the Directive 'airport user' means any natural or legal person responsible for the carriage of passengers, mail and/or freight by air from, or to the airport in question.

1.7 We have visited all 33 airports specified in the terms of reference and met with representatives of the airport operator, the Airport Users' committee (AUC), the Airport Operators' Committee (AOC), independent handlers and self-handling airlines. At a number of airports, we were also able to meet with worker representatives. The dates of the airport visits and the parties seen are summarised in Table 1-1 (in order of visiting).

**Table 1-1: Summary of airport visits**

	Airport	Date of visit	Stakeholders consulted				
			Airport operator	AOC	AUC*	Independent handler	Self handling airline
1	London – LHR	7 February/ 2 and 4 July	X	X	X	X	X
2	Munich	25 February	X	X	X	X	X
3	Nuremberg	26 February	X	X	X	X	X
4	Stuttgart	27 February	X	X	X		X
5	Frankfurt	28 February/ 1 March	X	X	X	X	X
6	Brussels	5 March	X	X	X	X	X
7	Amsterdam	6/7 March	X	X	X	X	X
8	Rome – FCO	13 March	X	X	X	X	X
9	Naples	14 March	X	X	X		X
10	Milan – MXP	15 March	X	X	X	X	
11	Copenhagen	19 March	X	X	X	X	X
12	Lisbon	20 March	X	X	X		X
13	Hamburg	20 March	X	X	X	X	X
14	Faro	21 March	X	X	X		X
15	Stockholm	21 March	X	X	X	X	X
16	Helsinki	22 March	X	X		X	X
17	Birmingham	8 May	X	X	X	X	X
18	Manchester	9 May	X	X	X	X	X
19	Belfast <sup>3</sup>	13 May	X	X		X	X
20	Dublin	14 May	X	X	X	X	X
21	Vienna	22 May	X	X	X	X	X
22	Madrid	22 May	X	X	X	X	X
23	Fuerteventura	23May	X	X		X	X
24	Tenerife Sur	24May	X	X		X	X
25	Barcelona	28 May	X	X	X	X	X
26	Palma de Mallorca	29 May	X	X		X	X
27	Luxembourg	29 May	X	X		X	X
28	Paris-CDG	11/12 June	X		X	X	X
29	Nice	13 June	X			X	X
30	Toulouse	14 June	X		X	X	X
31	Lyon	17 June	X	X	X	X	X
32	Heraklion	12 June	X	X	X	X	X
33	Athens	13/14 June	X	X	X	X	X

(\*) At airports where we have not met with the AUC, generally this was because either the AUC had not been set up or the functions had been delegated to the AOC.

<sup>3</sup> Belfast International Airport

1.8 We have also had separate meetings with a number of (trade) associations, as summarised in Table 1-2, receiving written comments from a number of them and from IATA.

**Table 1-2: Summary of meetings with representative organisations**

<b>Organisation</b>	<b>Date of meeting</b>
AEA	8 February
IAHA	8 February
ETF	8 February
EEA	5 March
ERA	11 March
IACA	18 March
ACI Europe	21 May

## **Confidentiality**

1.9 At the commencement of each of our meetings, we asked attendees to note any aspects of their comments which we should treat as confidential or non-attributable. The number of instances when interviewees asked that their identities not be linked to particular comments was extremely small.

## **Verification of information**

1.10 This report endeavours to present the factual information which we gathered during our interview programme. During any oral exchange of information, the possibility for mis-interpretation exists, and we indicated that we were happy to receive written representations from parties containing their positions or views. In a number of meetings, we also indicated that we would send the appropriate parts of drafts of our report to individuals for verification that we had accurately recorded their contributions. Many parties have provided written inputs, a number following our Draft Final Report.

## **Accuracy of information**

1.11 To the best of our knowledge and endeavours, the information presented in this report was accurate at the time it was collected. In a dynamic industry such as air transport, there is frequent change and in any study of this nature and duration, there is a danger that the “facts” reported will have been over-taken by events.

## **Acknowledgements**

1.12 We would like to note our gratitude and thanks to all parties who assisted us in our work, and given freely of their time and experiences. We are particularly grateful to airport operators, the majority of whom have assisted us in setting up our interview programmes at their airport and have normally provided us with a room which we have been able to use for all our meetings.

## **Timetable**

1.13 The first meeting with the Commission was planned for Week 1 or 2 of the study. Unfortunately, contract signature was on 7 December 2001, and the intervening

Christmas and New Year period delayed the meeting until Study Week 5 (i.e. 15 January 2002). This has had a ‘knock-on’ effect on the work, specifically we were not able to arrange and undertake as many airport visits as had been intended before submitting our Interim Report. We discussed the contents of the Interim Report with the Commission 30 April. Having started the airport visits at London- LHR, we also finished the last interview there on 4 July. We distributed the postal survey in the week of 15 May, requesting responses by Friday 21 June in order to allow us sufficient time to incorporate comments in this Draft Final Report. We suggested to other stakeholders (trade associations and national administrations) that they also submit any comments by that same date. After 21 June we encouraged the stakeholders to respond to the survey once more. We received completed questionnaires from 62 parties at the 48 airports we surveyed.

1.14 After submission of the Draft Final Report on 7 August, the Commission organised a meeting in Brussels on 6 September, where stakeholders had the opportunity to comment on the report. In co-ordination with the Commission we have incorporated the comments that we received, allowing stakeholders to submit comments within a week after this meeting. In line with the rest of the report, these comments were restricted to either factual corrections of positions or a clarification of the party’s own position.

## **Contestable market**

1.15 In this report when we refer to “the contestable market”, unless mentioned otherwise we mean the market for ramp services, since these are often limited services at EU airports. It was mentioned during the 6 September meeting, that the definition of contestable market may not have been clearly understood by all stakeholders. Despite the information which we gathered on contestable market is in part subjective, some answers suggest that land side operations have sometimes been included in the figures, although other ones are limited to ramp services.

## **Contents of this report**

1.16 We begin this report by discussing the opening of the ground handling market in Community airports according to the Directive (Section 2). Section 3 describes what the impact has been on the 33 airports visited. We then summarise the contacts we have had with National Administrations and compare national legislation with the Directive (Section 4). In Section 5, we describe the major issues, which have emerged and present the views of the different stakeholders. In Section 6, we discuss the answers from the stakeholders that responded to the postal survey. In the Appendices further background is given, for example detailed descriptions of the ground handling positions in each Member State can be found here.



## 2 Opening of ground handling market

### Introduction

2.1 In this Section, we first discuss the freedoms and restrictions of Council Directive 96/97/EC and identify the Community airports, which under the Directive, are obliged to open their ground handling market. We then summarise the current position on the degree to which the ground handling market has been opened at the airports that we have visited.

### Community airports

2.2 The introduction of Council Directive 96/67/EC of 15 October 1996 was phased over a number of years. By 1 January 2001, the Directive required the following:

- Freedom of self-handling (Article 7), which applies to any airport regardless of its volume of traffic. However, for the following four categories of ground handling services Member States may reserve the right to self-handle to no fewer than two airport users at airports with more than 1 million passenger movements or 25,000 tonnes of freight per annum<sup>4</sup>:
  - baggage handling;
  - ramp handling;
  - fuel and oil handling; and
  - freight and mail handling.

At an airport where specific constraints of available space or capacity make it impossible to open up the market and/or implement self-handling to the degree provided for in the Directive, the Member State in question may decide to reserve self-handling to a limited number of airport users for services other than the four above-mentioned categories. For these four categories, self-handling could be banned or restricted to a single airport user.

- Freedom of third party handling (Article 6), which applies to airports with more than 2 million passengers or 50,000 tonnes of freight per annum. However, for the same four categories of ground handling services noted above, Member States may limit the number of suppliers to no fewer than two for each category. However, at least one of the authorised suppliers must not be directly or indirectly controlled by (i.e. it must be independent of)<sup>5</sup>:
  - the managing body of the airport;

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<sup>4</sup> Provided they are chosen on the basis of relevant, objective, transparent and non-discriminatory criteria.

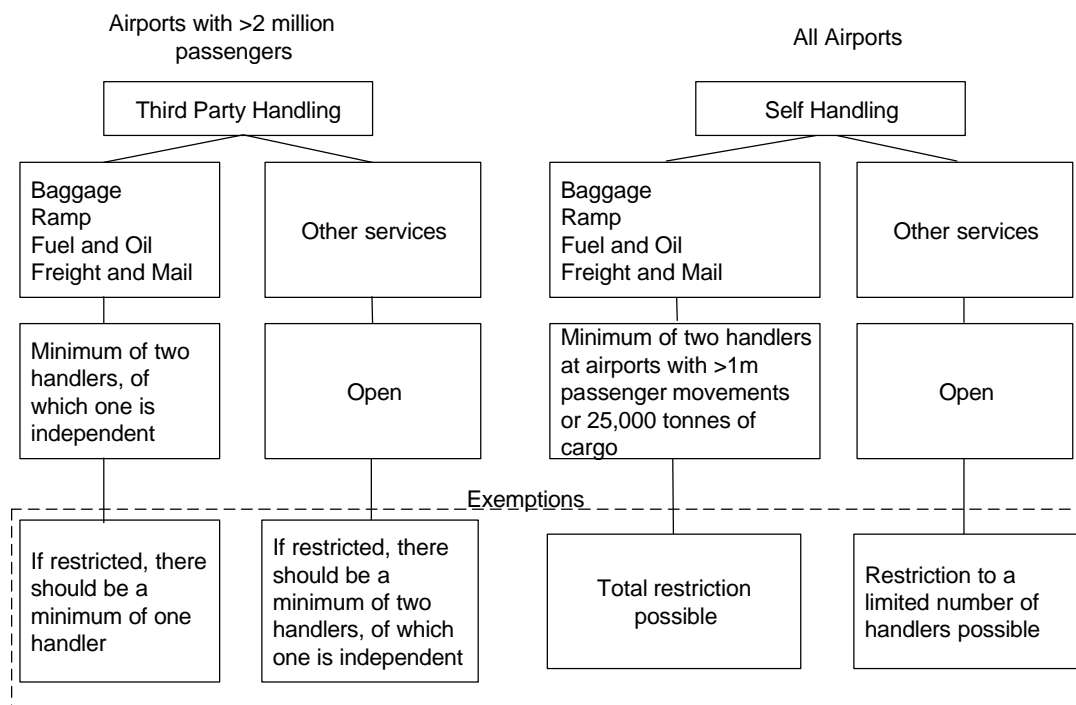
<sup>5</sup> However up to 1 July 2000, a Member State was able to request that this obligation be deferred until 31 December 2002.

- any airport user which has carried more than 25% of the passengers or freight recorded at the airport during the year preceding that in which those suppliers were selected; and
- a body controlling or controlled directly or indirectly by that managing body or any such user.

At an airport where specific constraints of available space or capacity make it impossible to open up the market and/or implement third party handling to the degree provided for in the Directive, the Member State in question may decide to reserve to a single supplier, one or more of the categories mentioned above and limit the number of suppliers for one or more categories of ground handling services other than the four mentioned above to no fewer than two, one of whom should be 'independent' (as defined above).

2.3 The aspects of the Directive described above are summarised in Figure 2.1.

**Figure 2.1: Freedoms and possible restrictions of Council Directive 96/97/EC**



## Exemptions

2.4 As explained above, the Directive did allow airport operators to seek temporary exemptions (Article 9). At an airport where specific constraints of available space or capacity, arising in particular from congestion and area utilisation rate, made it impossible to open up the market and/or implement self-handling to the degree provided for in the Directive, the Member State in question was able to decide to restrict the number of handlers.

2.5 If a Member State decides to restrict the number of handlers, then under Article 9 it has to notify the Commission. The Commission publishes the Member State's decision in the Official Journal and invites interested parties to submit comments. After close examination, the Commission may approve the Member State's decision or oppose it if it deems that the alleged constraints have not been proven to exist or that they are not so severe as to justify the exemption. The exemptions granted by the Commission are described in Table 2.1 (in chronological order). Since a number of the exemptions refer to specific categories, Appendix A gives the different categories of ground handling services as contained in the Annex to the Directive. An examination of the exemptions granted by the Commission suggests that they have all expired.

**Table 2.1: Summary of exemptions**

Airport	Date of decision of Commission	Type of exemption	Exemption granted until
Frankfurt	14 January 1998	- To reserve the categories 3, 5.4, 5.5, 5.6 and the handling of freight and mail to Frankfurt airport in parts of Terminal 1; one airport user should be allowed the right to self-handle	1 January 2001
Hamburg	30 October 1998	- To prohibit self handling for category 5.4 as from 1 January 1999 where the German authorities have not notified the Commission by that date that a user has begun self-handling operations in the space available	31 December 2000
Stuttgart	30 October 1998	- To prohibit self handling for baggage transport between the air terminal and the aircraft as defined in category 5.4 - To limit self handling to a single user for the categories 4, 5.5, 5.6 and 5.4	31 December 2000
Cologne/Bonn	30 October 1998	- To limit self handling to a single user for the categories 3, 4 and 5	Not granted
Paris CDG <sup>6</sup>	27 April 1999	Terminal CDG 2: - To ban self handling and to reserve for the airport the provision of services for category 5.4 (excluding halls A, B, D and F)	31 December 2000
		Terminal T 9: - To reserve for the airport the provision of services to third parties for category 3 - To limit to two the number of service providers and users authorised to self handle for category 2	1 April 2000
Berlin Tegel	27 April 1999	- To ban self handling for the categories 3, 5.4 and 5.6 - To reserve for Berlin Tegel airport the provision of services to third parties for the categories 4, 5.4 and 5.6	31 December 2000
Dusseldorf	14 January 1998	- To ban self handling for the categories 5.1, 5.2, 5.4, 5.5 and 5.6 - To limit self handling to two users for the categories 6.1, 6.2 and 6.3 - To reserve for Dusseldorf airport the provision of services to third parties, for the categories 5.1, 5.2, 5.4, 5.5 and 5.6 - To limit to two the suppliers of handling services for third parties for the categories 6.1, 6.2 and 6.3	31 December 2000
Dusseldorf	5 January 2000	- To ban self handling - To reserve for Dusseldorf airport the provision of services to third parties, for the categories 4.1, 5.4, 5.5 and 5.6	31 December 2001
Funchal	10 January 2000	- To restrict self-handling to a single user for the categories 3, 4 and 5.4	31 December 2000
Oporto	10 January 2000	- To limit to four the number of users authorised to self-handle for category 2	Not granted

Source: Directorate-General for Energy and Transport<sup>7</sup>

<sup>6</sup> Paris Roissy or Charles de Gaulle

<sup>7</sup> Information received from Commission's staff and information used from the Commission's website.

2.6 Article 1.4 of the Directive requires the Commission to publish on an annual basis a list of Community airports at which the ground handling market should be opened. The most recent list was published in the Official Journal of 21 December 2001. There were 81 airports with more than 2 million annual passengers (or 50,000 tonnes of freight) and 27 airports with more than 1 million annual passengers (or 25,000 tonnes of freight), as given in Table 2.2.

**Table 2.2: Community airports where market should be open**

Member State	Airports with more than 2 million passengers or 50,000 tonnes of freight	Airports with more than 1 million passengers or 25,000 tonnes of freight
Austria	Wien	Salzburg
Belgium	Brussel-Nationaal, Oostende, Liège-Bierset	
Denmark	København	Billund
Finland	Helsinki-Vantaa	
France	Paris-CDG, Paris-Orly, Nice-Côte d'Azur, Marseille-Provence, Lyon-Saint Exupéry, Toulouse-Blagnac, Bâle-Mulhouse, Bordeaux-Mérignac, Strasbourg-Entzheim	Pointe-à-Pitre-Le Raizet, Nantes-St Nazaire, Montpellier-Méditerranée, Fort de France-Le Lamentin, St Denis-Gillot, Tahiti, Ajaccio-Campo dell'Oro
Germany	Berlin-Schönefeld, Berlin-Tegel, Hahn, Hamburg, Dusseldorf, Frankfurt/Main, Hannover-Langenhagen, Stuttgart, München, Nürnberg, Leipzig-Halle, Köln-Bonn	Bremen, Dresden, Münster/Osnabrück, Paderborn-Lippstadt
Greece	Athina, Iraklion, Thessaloniki, Rodos, Kerkira	Chania, Kos
Ireland	Dublin, Shannon	Cork
Italy	Roma-FCO, Milano-MXP, Milano-Linate, Napoli-Capodichino, Bologna-Borgo Panigale, Cagliari-Elmas, Catania-Fontanarossa, Palermo-Punta Raisi, Bergamo-Orio al Serio, Venezia Tessera, Torino-Caselle, Verona-Villafranca	Olbia-Costa Smeralda, Firenze-Peretola, Bari-Palese Macchie, Pisa San Giusto, Genova-Sestri
Luxembourg	Luxembourg	
Netherlands	Amsterdam-Schiphol	
Portugal	Lisboa, Faro, Funchal, Oporto-Sà Carneiro	
Spain	Alicante, Barcelona, Bilbao, Fuerteventura, Gran Canaria, Ibiza, Lanzarote, Madrid-Barajas, Malaga, Menorca, Palma de Mallorca, Sevilla	
Sweden	Göteborg-Landvetter, Malmö-Sturup, Stockholm-Arlanda	
United Kingdom	London-Heathrow, London-Gatwick, London-Stansted, Manchester, Birmingham, Luton, Newcastle, Aberdeen, Bristol, East-Midlands, Belfast-International, Edinburgh, Glasgow	Belfast-City, Leeds Bradford, London City, Cardiff, Liverpool, Prestwick, Kent International
Total airports	81	27

Source: Official Journal, 21 December 2001

2.7 The list published in the Official Journal is based on passenger and cargo traffic statistics relating to the year 2000. For the year 2001, the list of airports above the threshold values in the Directive may be different.

### 3 Current position at airports visited

#### Introduction

3.1 In this Section we discuss the opening up of the ground handling market at the 33 airports we have visited. We present the quantitative information in tables, so facilitating comparison between airports. The more qualitative issues are discussed in Section 5 and in individual country reports in Appendix D.

#### Number of handlers

3.2 The figures below give an overview of the opening-up of access to the ground handling market in terms of the number of handlers (for self and third party handling) at each airport. The situation before and after the coming into force of the Directive is shown for the following ground handling categories<sup>8</sup>:

- Passenger handling (category 2);
- Baggage handling (category 3);
- Freight and mail handling (category 4);
- Ramp handling (sub category 5.4); and
- Fuel and oil handling (category 7).

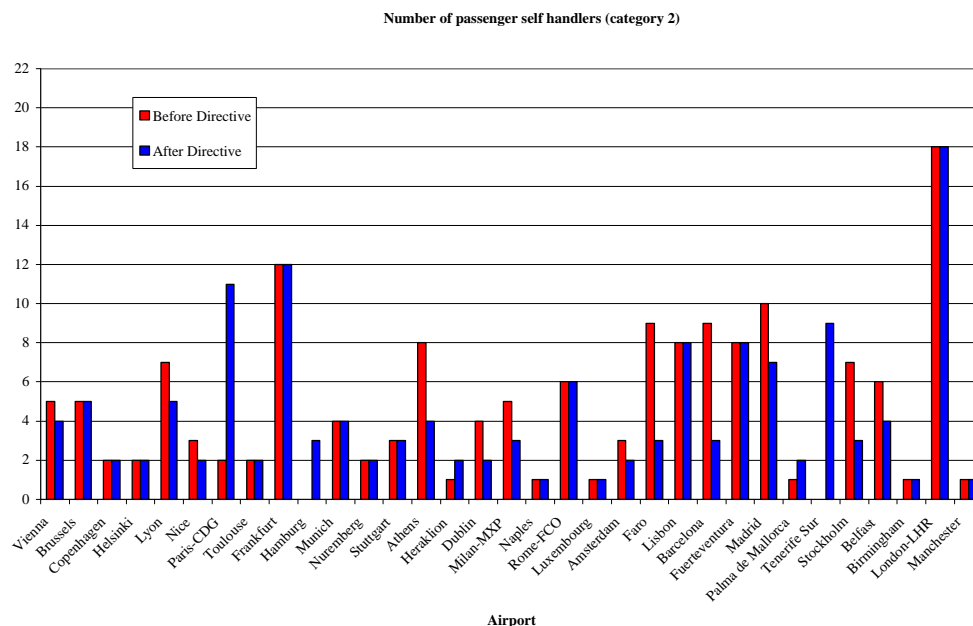
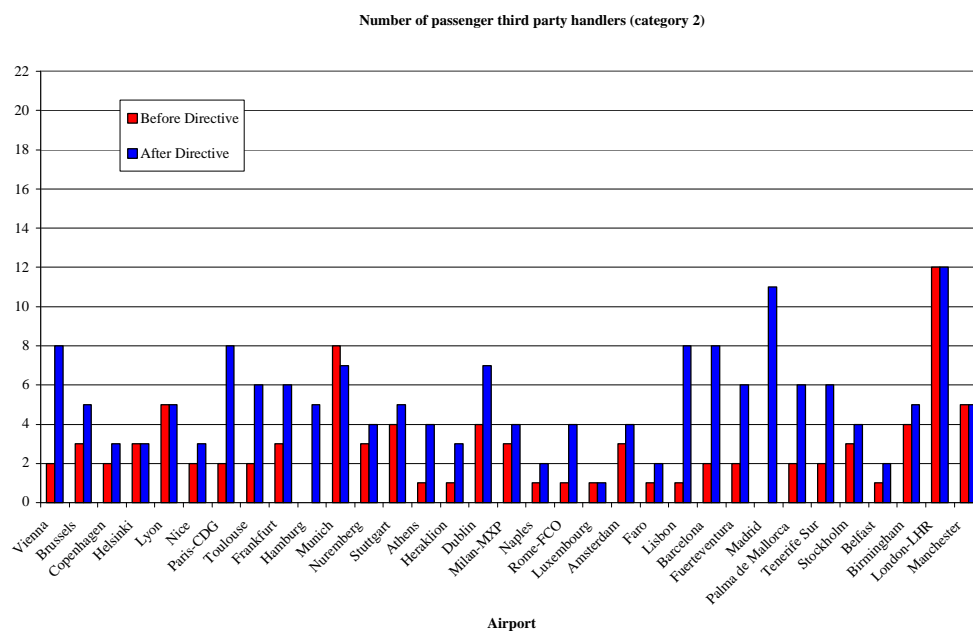
3.3 In the figures below, ‘before the Directive’ refers to the situation before the implementation of the national legislation. In relation to ramp handling, we have focused on sub category 5.4 (in broad terms the loading and unloading of the aircraft), as this is one of the most likely sub categories to be limited at an airport. Furthermore, classifying category 5 as a whole is difficult as many different activities are taken up (e.g. transport of catering, push back services and marshalling). The information is presented in tabular form in Appendix C.

#### Passenger handling

3.4 The number of self and third party passenger handlers for passenger handling is shown in Figure 3.1 and Figure 3.2. It may be noticed that with the exception of Paris-CDG, Heraklion and Palma de Mallorca, at all other airports the number of passenger self handlers has stayed the same or decreased. Only at Munich airport there has been a decrease of the number of passenger third party handlers.

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<sup>8</sup> Numbers in brackets refer to categories in the Annex to the Directive. Appendix A gives details of the composition of these categories.

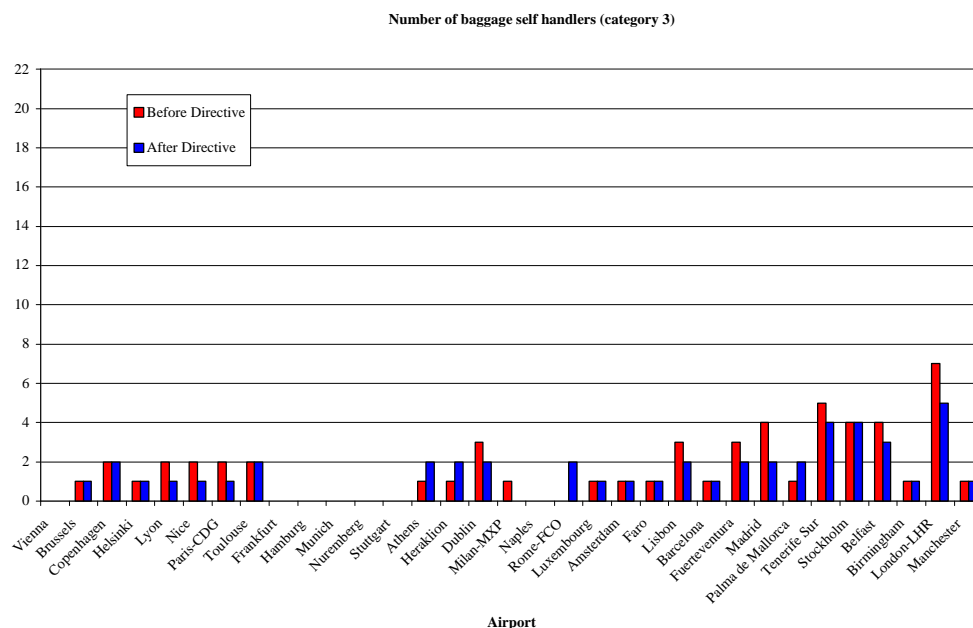
**Figure 3.1: Passenger self handling****Figure 3.2: Passenger third party handling**

### Baggage handling

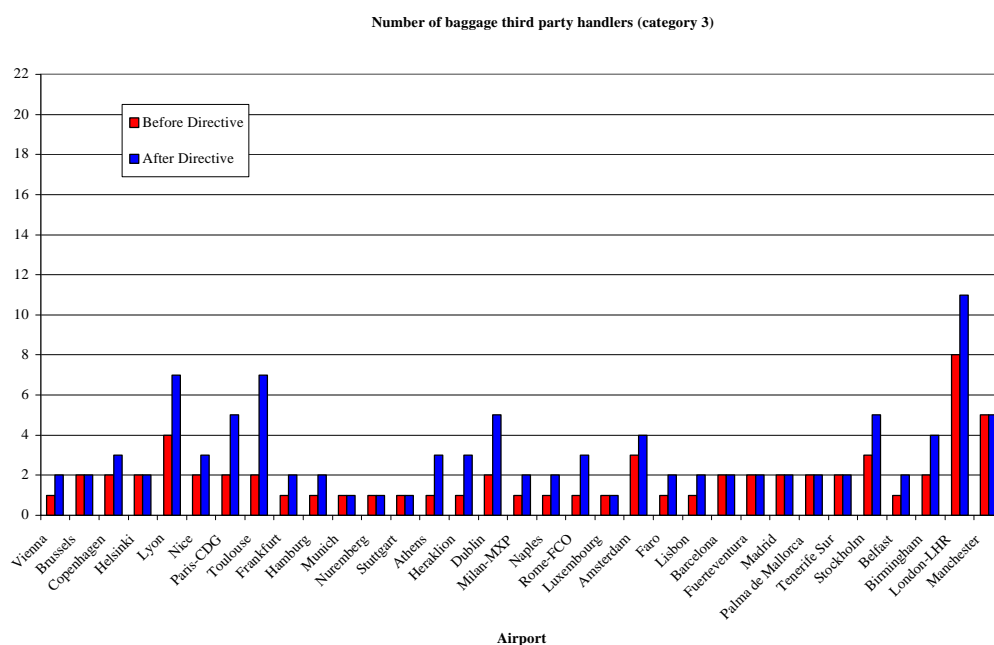
3.5 In general, few airlines undertake baggage self handling, Tenerife Sur, Stockholm, Belfast and London-LHR being exceptions. The number of self handlers for baggage handling is shown in Figure 3.3. Increases in the number of baggage self handlers have only taken place at Athens, Heraklion and Palma de Mallorca.

3.6 At 21 of the 33 airports visited the number of baggage third party handlers has increased (Figure 3.4); at the other airports no changes have taken place. The largest increase took place in Toulouse. Three German airports and the airport of Luxembourg have less than two baggage third party handlers, but most airports have two baggage third party handlers

**Figure 3.3: Baggage self handling**



**Figure 3.4: Baggage third party handling**



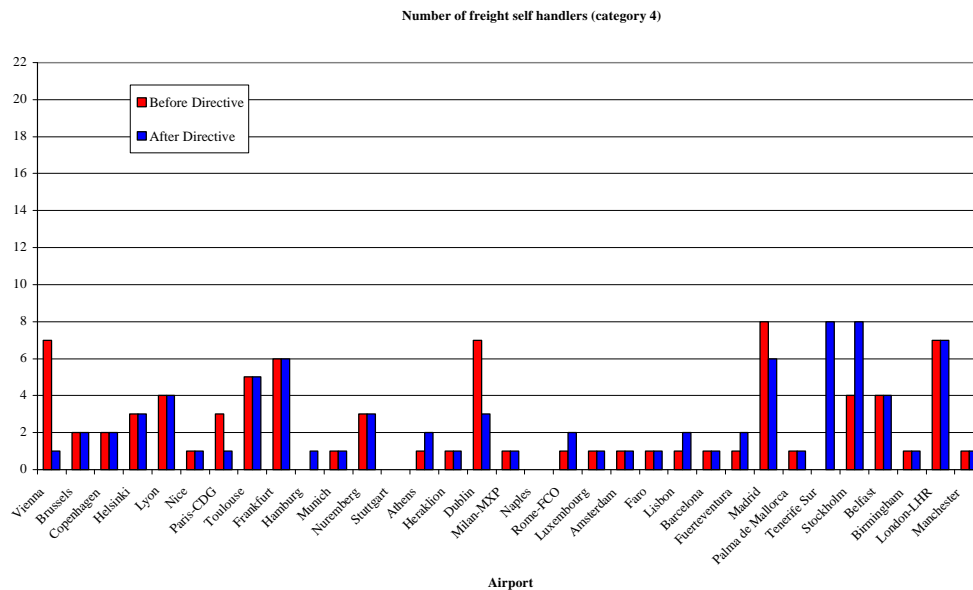


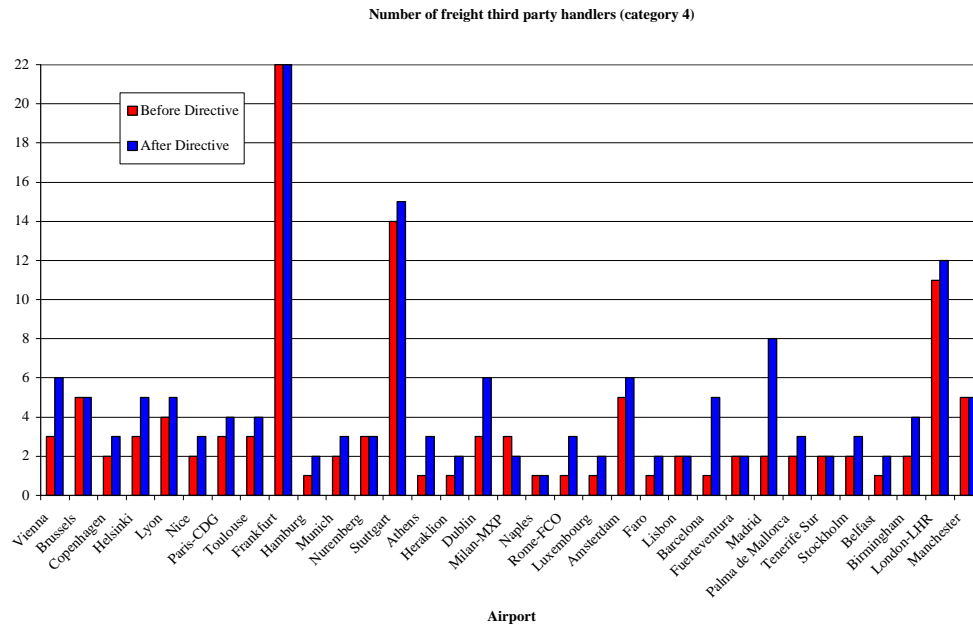
### Freight and mail handling

3.7 Changes in the number of freight and mail handlers are shown in Figure 3.5 and Figure 3.6. It may be seen that at 22 airports the number of self handlers in category 4 has remained the same. Significant decreases have taken place in Vienna, Paris-CDG and Dublin and at five airports the number of self handlers has increased (Stockholm had the largest increase).

3.8 At 23 airports the number of third party handlers for freight and mail has increased. Only at Milan-MXP the number of third party handlers has decreased; Naples is the only airport with less than two third party handlers. It may be seen that Frankfurt, Stuttgart and London-LHR have a significant larger number of third party handlers in this category than other airports.

**Figure 3.5: Freight and mail self handling**



**Figure 3.6: Freight and mail third party handling**

### Ramp handling

3.9 Changes in the number of ramp handlers in sub category 5.4 are shown in Figure 3.7 and Figure 3.8. At 6 airports there are no self handlers in ramp sub category 5.4, while at 11 airports the number of handlers has not changed and at 8 airports the number has decreased. Few airports accommodate more than two self handlers.

3.10 All the airports visited have two or more third party ramp handlers in category 5.4. London-LHR has the largest number of third party handlers (13 handlers). At 23 airports the number has increased, with London-LHR and three French airports having the largest increases. Furthermore it may be seen that all the Spanish airports visited have seen no changes, because changes in Spain took place before the Directive came into progress.

Figure 3.7: Ramp self handling

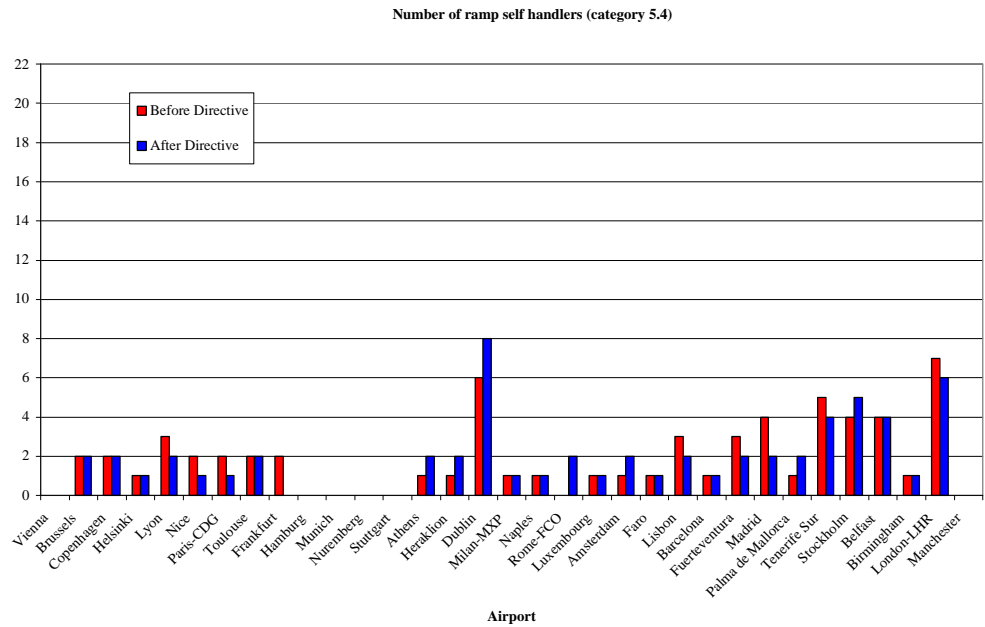
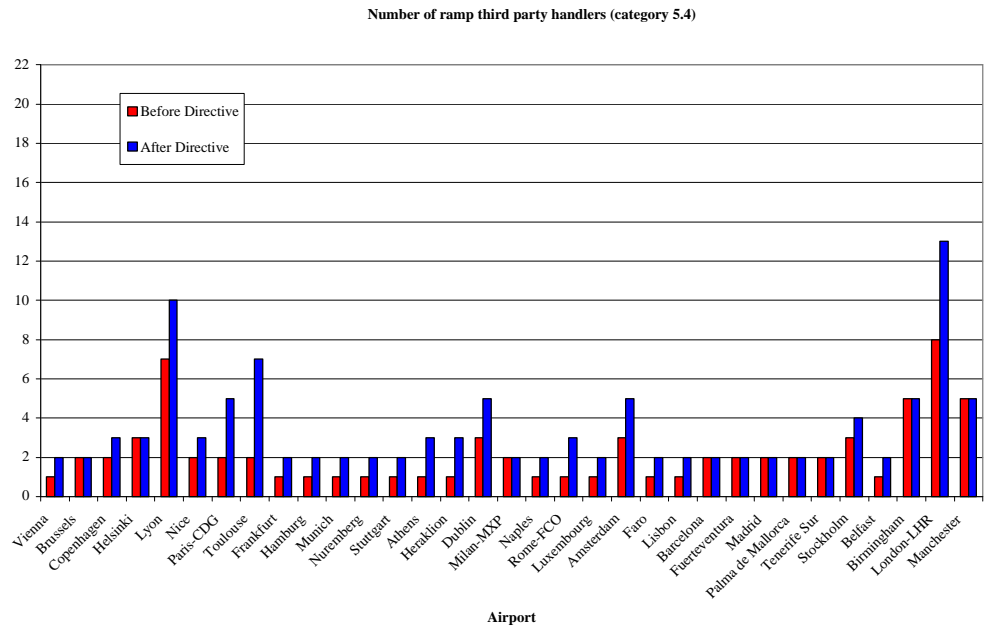


Figure 3.8: Ramp third party handling

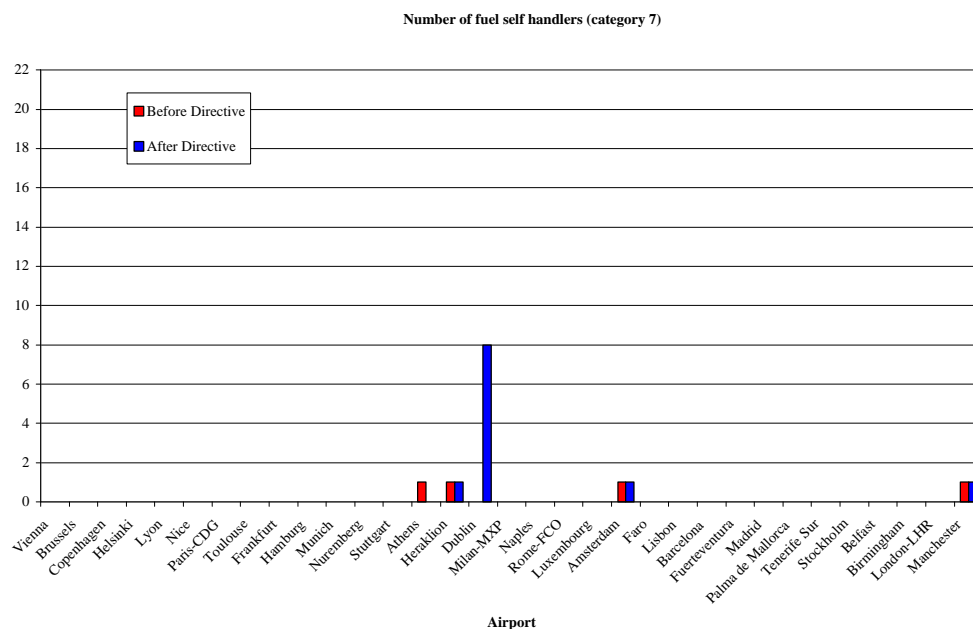


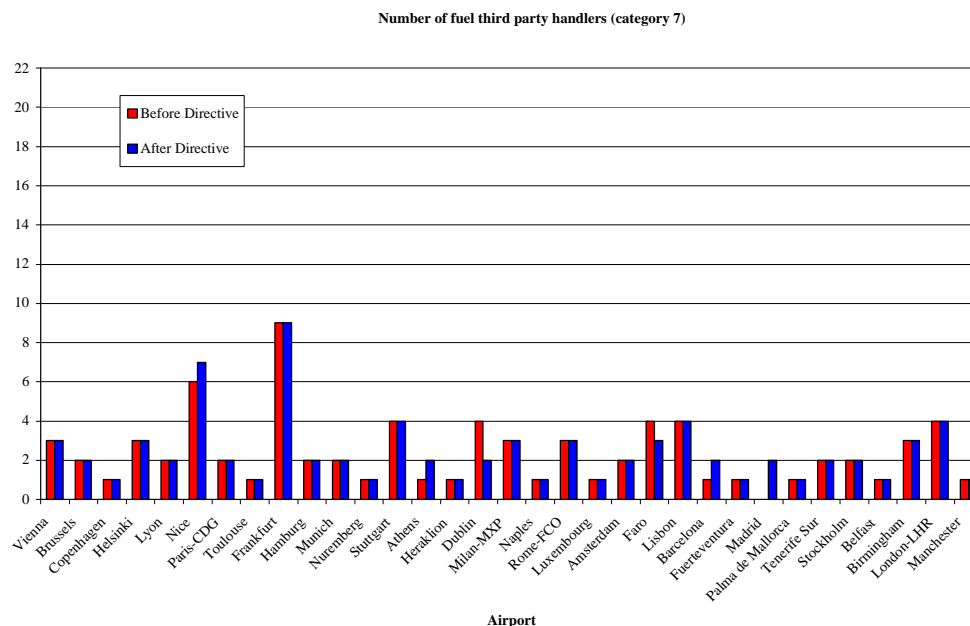
## Fuel and oil handling

3.11 In Figure 3.9 and Figure 3.10 the number of fuel and oil handlers is shown. It may be seen that there are only four airports that have self handlers in category 7. Dublin airport is the only airport where there has been an increase and where there is more than one self handler. Aer Rianta mentioned that this relates specifically to the activity of carrying out the replenishment of oil and other fluids (category 7.2).

3.12 With regard to fuel and oil third party handling it becomes clear from Figure 3.9 that only at five airports changes have taken place. The number of third party handlers in this category has increased only in Nice, and then by only one handler. The largest number of third party fuel and oil handlers can be found in Frankfurt.

**Figure 3.9: Fuel and oil self handling**



**Figure 3.10: Fuel and oil third party handling**

## Changes in handling prices

3.13 We summarise the general views of stakeholders on the development of prices for handling services after the implementation of the Directive in Table 3.1. Though the Directive has facilitated competition, many parties have argued that the changes in prices are a result of the evolution of the airline industry, in which airlines are constantly reducing costs and putting pressure on their suppliers. It may be concluded from Table 3.1 that prices have decreased throughout the Member States. It may also be seen that in general the perception is that the decrease in prices has been larger in Member States with former handling monopolies (e.g. Greece and Italy) than in those states where the market was already open (e.g. the Netherlands).

**Table 3.1: Summary of price developments**

Airport	Airport operator	Airline	AUC	AOC	Handler
Vienna	-15%	Austrian Airlines: -5%	-5%	-10%	VAS: no insight
Brussels	Increase	Lufthansa: increase	No change		BGS: no change Aviapartner: no change
Copenhagen	Decrease			-10 to -15%	Novia: decreased SAS: frozen <sup>1</sup>
Helsinki	No insight	British Airways: no change		Stable	GlobeGround: no major change Finnair: -30% to -40% Fortum: no change
Lyon	-50%	Brit Air: no change	Slight decrease		Aviapartner: -20% Servisair: -20%
Nice		Air France:			Swissport: lower

		no change			
Paris-CDG	-20%	Lufthansa: +8%	Slight decrease		
Toulouse	Decrease		Slight decrease		Servisair: -20% Aviapartner: -20%
Frankfurt	-5% to -15%	British Airways: significant decrease	-10%	No change	Acciona Airport Services: decrease
Hamburg	-5% to -15%		No insight	No insight	Checkpoint B: -15% to -20% Swissport and Menzies: -10% to -15%
Munich	-15%	British Airways: -15% to -25%	Frozen		Aviapartner: -20%
Nuremberg	-10% to -20%	Eurowings: -15%	Frozen		Aviapartner: -20%
Stuttgart	Decrease	Alitalia: no change	-15% to -20%	Decreased	Servisair: airlines expected -25% Aerogate: decreased
Athens	-30% to -40%		Decrease		Swissport: -40% Goldair: large discounts
Heraklion			-15%		
Dublin	No insight	Ryanair: no insight Aer Lingus: +10%	No change		Servisair: -5% to -7.5% Aviance: no insight
Milan-MXP	-20%				
Naples	-25%		No change		
Rome-FCO	-10 to -25%	Alitalia: Decrease			EAS: -30%
Luxembourg	No change	Cargolux: increased	Increase	Decrease	CSLUX: frozen Luxair: frozen
Amsterdam	-5% to -10%	KLM: Decrease <sup>2</sup>		Decrease	GlobeGround: Decrease <sup>2</sup>
Faro	Decrease	Charter airlines: -10%	Decrease	Decrease	Portway: -25% TAP Handling: -15%
Lisbon	Significant reductions up to 50%	Lufthansa: -20%	Decrease	Decrease	Portway: -10%
Barcelona	Decrease			Decrease	Iberia Handling: decrease
Fuerteventura	Decrease				
Madrid	Decrease		Decrease		Ineuropa and Iberia Handling: decrease
Palma de Mallorca	Decrease		Decrease		Ineuropa: -20%
Tenerife Sur	Decrease		-20%		
Stockholm	-20% to -30%	Skyways: -10 to -15%	No change	Decrease	Air Cargo Center: slight decrease Novia: -20% to -30% Servisair: decrease
Belfast	No insight	BMI: no insight	No insight	No insight	Servisair: -10% Aviance: -5%
Birmingham	Decrease	Aer Lingus: frozen	Frozen		Groundstar: no change

		British Airways: slight increase			Servisair: no insight Aviance: frozen
London-LHR	No comment	American: -20% Malaysia Airlines: -10% to -40%	No comment	No comment	Swissport: -25% to -30%
Manchester	+10% <sup>3</sup>	Monarch: no change			Aviance: -20% since 1992 Ringway: no change Servisair: -10% to -15%

(1) But off peak prices are estimated to have decreased up to 35%

(2) Price erosion started in 1993 with the entrance of Ogden

(3) Decrease in prices took place in 1992 when market was opened, but since the implementation of the Directive, Manchester Airport estimates the prices have increased.

## Changes in quality levels

3.14 We summarise the general views of stakeholders on the development of quality levels for handling services after the implementation of the Directive in Table 3.2. From the table, it may be concluded that the changes in the level of quality varies significantly both from one airport to the other, and from one stakeholder to another, with individuals having opposing views on the local level. Therefore, no general conclusion can be drawn.

**Table 3.2: Summary of quality developments**

Airport	Airport operator	Airline	AUC	AOC	Handler
Vienna	No change	Austrian Airlines: increase			VAS: no insight
Brussels	Increase	Lufthansa: no change	No change		BGS: increase Aviapartner: no change
Copenhagen	Decrease				SAS: no change
Helsinki	No change	British Airways: no change		No change	GlobeGround: increase Finnair: no change Fortum: increase
Lyon	Decrease	Brit Air: increase	No change		Aviapartner: decrease Servisair: decrease Globeground: increase
Nice	Decrease				Swissport: increase
Paris-CDG	Unstable		No change		Globeground: increase
Toulouse	Decrease		No change		Aviapartner: decrease Servisair: decrease
Frankfurt	No change	British Airways: no change	No change	No change	Acciona Airport Services: no change
Hamburg	No change		No change	No change	Checkpoint B: no change AHS Handling: increase

					Swissport: no change
Munich	- 5%	British Airways: no change	Decrease/ no change		Aviapartner: no change
Nuremberg	No change		No change		Aviapartner: no change
Stuttgart	No change	Alitalia: increase	No change	No change	Servisair: no change Aerogate: decrease
Athens	Increase		Increase	Increase	Olympic Handling and Goldair: increase
Heraklion	Increase		Increase		
Dublin	Decrease	Aer Lingus: no change	No change		Servisair: no change Aviance: increase
Milan-MXP	No change		No change		
Naples	Increase		No change		
Rome-FCO	No change	Alitalia: increase	Increase		EAS: increase
Luxembourg	No change				CSLux: increase Luxair: increase
Amsterdam	Decrease	KLM: No change	SGUC: decrease	No change	GlobeGround: no insight
Faro	Increase	Charter airlines: increase		Increase during off peak	
Lisbon	No change	Lufthansa: increase		Increase	
Barcelona	Decrease			Decrease	
Fuerteventura	Increase				
Madrid	Increase				
Palma de Mallorca	Increase		Increase		Iberia Handling and Ineuropa: increase
Tenerife Sur	Increase				Ineuropa: increase
Stockholm	-10% to -20%	Skyways: decrease	No change		Novia: no change Servisair: increase
Belfast	No change	BMI: no change		No change	Servisair: +15% Aviance: no change
Birmingham	Decrease	Aer Lingus: increase	Increase		Groundstar: increase Servisair: increase
London-LHR	No comment	United: decrease Malaysian Airlines: -10% Singapore Airlines: increase	No comment	No comment	Swissport: no change
Manchester	Decrease		Decrease	Decrease	Aviance: increase Ringway: increase Servisair: decrease

## Tender process

3.15 Table 3.3 gives an overview of the more important features the tender process. It shows by airport the number of licences tendered in the categories where there are limitations (the 'limited categories'), the number of applicants, if there was a pre-selection procedure, the body defining the criteria and if the AUC was consulted in this decision.



3.16 It may be seen that at 12 of the 33 airports, one or more tender process has been launched since the Directive came into force. At the other airports the market is unrestricted or a tender process has not been launched yet (except for Spain where the tenders were held before the implementation of the Directive). In most tenders there was a pre-selection process. The airport operator has been involved in the definition of the selection process at every airport except one. At the airports where the airport operator is involved in ground handling, the local Ministry or the CAA has made the selection decision. In all tenders the AUC has been consulted about the selection decision, with the exception of Luxembourg<sup>9</sup>.

**Table 3.3: Summary of tender process**

Airport	Number of licenses tendered	Number of applicants	Pre-selection	Who defines criteria	Who decides	AUC consulted?
Vienna	1	6 (after pre-selection)	Yes	Airport, but approved by CAA	Ministry	Yes
Brussels	2	6	Yes	BIAC and AUC	Airport and AUC	Yes
Copenhagen	No tender has taken place					
Helsinki	No tender has taken place					
Lyon	No tender has taken place					
Nice	3	6	No	Chamber of Commerce	Chamber of Commerce	Yes
Paris-CDG	7	N/a	Yes	DGAC	DGAC	Yes
Toulouse	No tender has taken place					
Frankfurt	1 for third party ramp services and 2 for self handling ramp services	6 applicants for the third party ramp handling license	No	Fraport & Ministry	Ministry	Yes
Hamburg	4 different licences	Between 1 and 8 applicants per licence	Yes	AUC and Ministry	Ministry	Yes
Munich	1	6	Yes	Airport and Ministry	Ministry	Yes
Nuremberg	3	Between 3 and 4 applicants per license	Yes	Airport and Ministry	Ministry	Yes
Stuttgart <sup>1</sup>	Two tenders: sub categories 3, 4.1, 4.2, 5.5. and 5.6	First tender: 8 Second tender: 3	Yes	Airport and Ministry	Ministry	Yes
Athens	5 for third party and 4	7 after pre-qualification	Yes	Airport	Airport (AIA)	Yes

<sup>9</sup> The CAA in Luxembourg did discuss its preference with some stakeholders, although not officially with the AUC or AOC.

	for self handling	/11 express- ed interest				
Heraklion	3	5 after pre- qualification / 6 express- ed interest	Yes	Ministry/ HCAA	Ministry	Yes
Dublin	No tender has taken place					
Milan-MXP	Tender process not yet launched			ENAC & SEA	ENAC	Yes
Naples	No tender has taken place					
Rome-FCO	2	16	Yes	ENAC & ADR	ENAC	Yes
Luxembourg	1	8	Yes	Ministry of Transport	Ministry of Transport	No
Amsterdam	No tender has taken place					
Faro	No tender has taken place					
Lisbon	No tender as yet - tender being organised by INAC for last quarter 2002					
Barcelona <sup>2</sup>	1	First tender took place 1997, to be re-tendered third quarter 2002; tender for second license due in 2006				
Fuerteventura <sup>2</sup>	1	First tender took place in 1995, to be re-tendered third quarter 2002; tender for second license due in 2004				
Madrid <sup>2</sup>	1	First tender took place in 1997, to be re-tendered third quarter 2002; tender for second license due in 2006				
Palma de Mallorca <sup>2</sup>	1	First tender took place in 1997, to be re-tendered third quarter 2002; tender for second license due in 2005				
Tenerife Sur <sup>2</sup>	1	First tender took place in 1994, to be re-tendered third quarter 2002; tender for second license due in 2003				
Stockholm	No tender has taken place					
Belfast	No tender has taken place					
Birmingham	No tender has taken place					
London-LHR	No tender has taken place					
Manchester	No tender has taken place					

(1) The second tender was for a licence for services of the same sub categories as the first tendered licence, since the handler that won the first licence (Servisair) left the market.

(2) Incumbent (Iberia) was granted a concession for 7 years in 1993. First tender (following Aena's guidelines) took place before the Directive was implemented in Spain.

## Contestable market

3.17 At most airports, the major home carrier will self-handle and also handle for its code-share and alliance partners (if it has a third party licence). This potentially restricts the size of the contestable market for third party handlers and therefore can greatly influence the unit costs that they can achieve (see Section 5). For third party handlers the actual size of the contestable market at an airport is obviously important. During our consultations we have asked stakeholders to make an estimate of the size of this market for ramp handling.

3.18 In addition we have undertaken a desk analysis of the traffic at the airports to assess the proportion of each airport's traffic that might be available as a market for an independent handler. For this purpose we have used the Official Airline Guide (OAG) to estimate the contestable market for ramp services (based on estimated number of passengers)<sup>10</sup>. More details of this exercise are given in Appendix H. The

<sup>10</sup> Although this gives only scheduled services

results of these investigations are given in Table 3.4. Blank cells mean we have been unable to obtain an estimate from the relevant party involved.

**Table 3.4: Summary of contestable market estimate for ramp handling**

Airport	Estimate of contestable market for ramp services			
	Airport operator	Airline	Independent handler	SH&E <sup>11</sup>
Vienna	100%	Austrian Airlines: 30%	VAS: 20%	30%
Brussels	100%	Virgin Express: 30%	GlobeGround: 35% BGS: 25% to 30%	
Copenhagen	30%	Cimber Air: 20% SAS: 30% to 33%	Novia: 30%	30%
Helsinki	15% to 20%	British Airways: 5%	Finnair: 10% to 20%	30%
Lyon	0%	Brit Air: 40% Air France: 40% to 50%	Aviapartner: 40% Servisair: 45% Globeground: 50%	30%
Nice	N/a	N/a	N/a	75%
Paris-CDG	CDG 1: 100% CDG 2: 22% T9: 100%	Air France: 50%	Globeground: 50% (Terminal 1)	40%
Toulouse	40%	Air France: 35% to 40%	40%	45%
Frankfurt	35% to 40%	Lufthansa: 40%	Acciona Airport Services: 40%	30%
Hamburg	100%	Lufthansa: 45%	Checkpoint B: 25-30% Swissport: 30-40% Menzies: 35%	40%
Munich	100%		Aviapartner: 25%	40%
Nuremberg	100%		Aviapartner: 15%	70%
Stuttgart	100%	Alitalia: 25% Lufthansa: 20%	Servisair: 20%	60%
Athens	33%	Olympic Airways: 32%	Swissport: 39%	50%
Heraklion	65%	Olympic Airways: 70%	Swissport: 65%	60%
Dublin	40%	Lufthansa: 20% Aer Lingus: 30%	Servisair: 20% to 25%	45%
Milan-MXP	100%			40%
Naples	30%			50%
Rome-FCO	40%			45%
Luxembourg <sup>1</sup>	35%	Cargolux: 20%	CSLux: 30% to 35%	
Amsterdam	25%	KLM: 30-35%	Aviapartner: 30% GlobeGround: 25% to 30%	50%
Faro	92%	TAP: 90%		80%
Lisbon	40%	TAP: 50%		35%
Barcelona	41%		Eurohandling: 45%	45%
Fuerteventura	75%			95%
Madrid	50%		Ineuropa: 35%	40%
Palma de Mallorca	80%		Ineuropa: 70%	85%

<sup>11</sup> Percentages rounded to nearest 5%; for Brussels, because of the collapse of Sabena no home carrier could be assumed and SH&E has made no estimate.

Tenerife Sur	84%			65%
Stockholm	50% to 55%		Novia: 35% Servisair: 20%	35%
Belfast	100%	easYjet: 100%	Servisair: 100% Aviance: 100%	70%
Birmingham	75%	British Airways: 60% to 70%	Groundstar: 60% to 65% Servisair: 70% Aviance: 40%	50%
London-LHR	40% to 55%	United: 50%	Swissport: 25%	25%
Manchester	100%		Ringway: 100% Servisair: 100%	60%

(1) Estimate for freight handling.

3.19 It may be seen from Table 3.4 that the estimates of the contestable market for ramp handling at a given airport vary widely depending on the origin of the estimate. It is possible that different respondents interpreted our questions in different ways, although we endeavoured to ensure that this did not happen.

3.20 Local circumstances, such as *inter alia* the degree of liberalisation of the market, the presence of a major handling airline providing handling services (further discussed in Section 5), have a significant influence on the size of the contestable market at each airport. In general the airport operators perceive the contestable market to be greater than the airlines and the handlers. The estimates of independent handlers for market contestability at German airports are amongst the lowest, while the UK appears to have the largest proportion of the market contestable.

### Airport Users' Committee

3.21 Under Article 5 of the Directive, Member States are required to ensure that, no later than twelve months after the coming into force of the Directive, a committee of representatives of airport users or organisations representing airport users is set up. All airport users shall have the right to be on this Airport Users' Committee (AUC), or, if they so wish, to be represented on it by an organisation appointed to that effect. gives an overview of the functioning of the AUC, and summarises a number of the more important aspects of AUCs.

3.22 It may be seen from Table 3.5 that at almost all airports an AUC has been established, and where it is a new committee, its own constitution agreed. At some airports, the functions are delegated to the Airline Operating Committee (AOC). At the majority of the airports visited, traffic volumes (e.g. traffic units, MTOW or slots) are used as a base for voting. The AUC in Stockholm is the only AUC that has not decided on specific voting rules. It is unusual for handlers to be members of the AUC, but during our consultations we discovered that in many cases air carriers were in fact represented by their handlers at AUC meetings.

**Table 3.5: Airport Users' Committee**

Airport	Does AUC exist?	New?	Constitution?	Voting?	Members of AUC
Vienna	Yes	Yes	Yes	Based on traffic unit	Air carriers
Brussels	Yes	Yes	Yes	7 of the 8 board members have 1 vote	Air carriers
Copenhagen	Yes	Yes	No	Each member has one vote	Air carriers
Helsinki	Yes	Delegated to AOC	AUC: no AOC: yes	Each member has one vote	Air carriers
Lyon	Yes	Yes	Yes	Based on traffic unit	Air carriers
Nice	Yes	Yes	Yes	Based on traffic unit	Air carriers
Paris-CDG	Yes	Yes	Yes	Based on traffic unit	Air carriers
Toulouse	Yes	Yes	Yes	Based on traffic unit	Air carriers
Frankfurt	Yes	Yes	Yes	Based on MTOW <sup>1</sup>	Air carriers
Hamburg	Yes	Yes	Yes	Based on MTOW <sup>1</sup>	Air carriers
Munich	Yes	Yes	Yes	Based on MTOW <sup>1</sup>	Air carriers
Nuremberg	Yes	Yes	Yes	Based on MTOW <sup>1</sup>	Air carriers
Stuttgart	Yes	Yes	Yes	Based on MTOW <sup>1</sup>	Air carriers
Athens	Yes	Yes	Yes	Based on traffic unit	Air carriers
Heraklion	Yes	Yes	Yes	Based on movements <sup>2</sup>	Air carriers
Dublin	Yes	Yes	Yes	Each member has one vote	Air carriers
Milan-MXP	Yes	Yes	Yes	N/a	Air carriers
Naples	Yes	Yes	Yes	N/a	Air carriers
Rome-FCO	Yes	Yes	Yes	N/a	Air carriers
Luxembourg	No	-	No	-	-
Amsterdam	Yes	Yes	Yes	Each member has one vote	Air carriers
Faro	Yes	Yes	Yes	Based on traffic unit	Air carriers
Lisbon	Yes	Yes	Yes	Based on traffic unit	Air carriers
Barcelona <sup>3</sup>	No				
Fuerteventura <sup>3</sup>	No				
Madrid <sup>3</sup>	Yes	Yes	Yes	Based on traffic unit	Air carriers
Palma de Mallorca <sup>3</sup>	Yes				
Tenerife Sur <sup>3</sup>	Yes	Yes	Yes	Based on traffic unit	Air carriers
Stockholm	Yes	Yes	No <sup>4</sup>	No specific rules	Air carriers
Belfast	Yes	Delegated to AOC	No	Each AOC member has one vote	Air carriers (AOC) and ground handlers
Birmingham	Yes	Part of AOC	No <sup>5</sup>	Each member has one vote	Air carriers and ground handlers
London-LHR	Yes	Yes	Yes	Based on number of slots	Air carriers
Manchester	Yes	Yes	Yes	Each member has one vote	Air carriers

(1) Except for matters of constitution (one air carrier one vote); an air carrier cannot exceed 49% of votes, regardless of its MTOW share.

(2) Except for minor and board selection matters when one air carrier has one vote.

(3) Only Madrid airport has an AUC which is legally and formally recognised by DGAC in Spain. Palma de Mallorca and Tenerife airports have formed AUCs, but their constitution laws and rules have not yet been approved by DGAC.

(4) No constitution, but AUC's existence is laid down in minutes of AOC.

(5) Constitution of AOC refers to AUC.

## Self handling

3.23 Table 3.6 summarises the number of airlines that applied to supply self handling services at the 33 airports. At some airports, existing self handlers (i.e. those that were already present when the Directive was implemented) did not need to apply for a licence. Furthermore, as some airports operate an open handling market, there is no specific process for airlines to apply for self handling authority. Therefore the fact that at some airports there have been no applicants for self handling does not mean there are no self handlers, e.g. in Frankfurt there are 11 airlines providing passenger handling and 6 airlines involved in cargo self handling.

3.24 The table includes both services in limited and in unlimited categories<sup>12</sup>.

**Table 3.6: Applicants for self handling**

Country	Airport	Landside <sup>12</sup>		Airside	
		Number of applications	Number applications accepted	Number of applications	Number applications accepted
Austria	Vienna	0	-	0	-
Belgium	Brussels	8	8	12	12
Denmark	Copenhagen	2	2	4	4
Finland	Helsinki	0	-	0	-
France	Lyon	N/a	N/a	N/a	N/a
	Nice	3	3	3	3
	Paris-CDG	0	-	9	5
	Toulouse	N/a	N/a	2	2
Germany	Frankfurt	0	-	0	-
	Hamburg	0	0	1	1
	Munich	0	-	0	-
	Nuremberg	0	-	0	-
	Stuttgart	0	-	0	-
Greece	Athens	10	10	16	16
	Heraklion	3	3	3	3
Ireland	Dublin	14	14	15	15
Italy	Milan-MXP	5	5	1	1
	Naples	1	1	1	1
	Rome-FCO	0	0	3	2
Luxembourg	Luxembourg	0	-	0	-
Netherlands	Amsterdam	0	-	0	-
Portugal	Faro	8	8	2	2
	Lisbon	12	12	2	2
Spain	Barcelona	10	10	3	3
	Fuerteventura	3	3	2	2
	Madrid	9	9	4	4
	Palma de Mallorca	4	4	4	4
	Tenerife Sur	4	4	4	4
Sweden	Stockholm	1	1	1	1
UK	Belfast	0	-	0	-

<sup>12</sup> For this separation between landside and airside, the handling categories 1, 2 and 9 are defined as landside and 3, 4, 5, 6, 7, 8, 10 and 11 as airside.

	Birmingham	0	-	0	-
	London-LHR	0	-	0	-
	Manchester <sup>1</sup>	0	-	0	-

(1) Approval for sub contracting is required as all handlers are required to adhere to terms and conditions relating to safety, security etc.

3.25 It may be seen that at only two airports (viz. Hamburg and Rome-FCO) were some applications for self handling not approved. At Hamburg there were only a limited number of licences available, while at Rome-FCO the third application is still pending (waiting a decision by the airline and approval by ENAC).

## Sub contracting

3.26 In the Directive, no special mention is made about sub contracting of handling services. Table 3.7 shows whether sub contracting exists, and if so whether the applicant disclosed the potential sub contractor during the tender procedure.

**Table 3.7: Summary of sub contracting**

Country	Airport	Does sub contracting exist	Indicated during tender?	Approval from	
				Airport operator	Civil aviation administration
Austria	Vienna	Yes	Yes	Yes <sup>1</sup>	Yes
Belgium	Brussels	Yes	No	Yes	No
Denmark	Copenhagen	Yes	No tender	Yes	No
Finland	Helsinki	Yes	No tender	No	No
France	Lyon	Yes	No tender	Yes	Yes
	Nice	Yes	No	Yes	Yes
	Paris-CDG	Yes	No	No	Yes
	Toulouse	Yes	No tender	Yes	Yes
Germany	Frankfurt	Yes	No	Yes	No
	Hamburg	Yes	No	Yes	No
	Munich	Yes <sup>2</sup>	No, not permitted	Yes	No
	Nuremberg	Yes	No	Yes	No
Greece	Stuttgart	Yes	No	Yes	No
	Athens	No	No, prohibited		
Ireland	Heraklion	No	No, prohibited		
	Dublin	Yes	No tender	No	Approval from CAR <sup>3</sup>
Italy	Milan-MXP	Yes	No tender	No	Yes
	Naples	Yes	No tender	No	Yes
	Rome-FCO	No	No, prohibited		
Luxembourg	Luxembourg	No	Yes	Yes <sup>4</sup>	Yes <sup>4</sup>
Netherlands	Amsterdam	Yes	No tender	Yes	No
Portugal	Faro	Yes	No tender	Yes	Yes
	Lisbon	Yes	No tender	Yes	Yes
Spain	Barcelona	Yes <sup>5</sup>	N/a	Yes	Yes
	Fuerteventura	Yes <sup>5</sup>	N/a	Yes	Yes
	Madrid	Yes <sup>5</sup>	N/a	Yes	Yes
	Palma de Mallorca	Yes <sup>5</sup>	N/a	Yes	Yes
	Tenerife Sur	Yes <sup>5</sup>	N/a	Yes	Yes
Sweden	Stockholm	Yes	No tender	Yes	Yes
UK	Belfast	Yes	No tender	No <sup>6</sup>	No
	Birmingham	Yes	No tender	Yes	No

	London-LHR	Yes	No tender	Yes	No
	Manchester	Yes	No tender	Yes	No

- (1) In accordance with Performance and technical Specifications Manual.
- (2) But officially not allowed according to concession contract.
- (3) CAR = Commission for Aviation Regulation (see Section 4).
- (4) The CAA is effectively the airport operator in Luxembourg.
- (5) On non-restricted services.
- (6) But comply with terms of conditions.

3.27 It may be seen that sub contracting does not exist at only four airports: Athens, Heraklion, Rome-FCO and Luxembourg. At the first three airports sub contracting is prohibited, while at Luxembourg the handlers opt not to use sub contractors. At Munich airport, sub contracting exists, although it is officially prohibited.

## Access fees

3.28 Article 16 of the Directive requires Member States to take the necessary measures to ensure that suppliers of ground handling services and airport users wishing to self handle have access to airport installations to the extent necessary for them to carry out their activities. Where access to airport installations gives rise to the collection of a fee, the latter shall be determined according to relevant, objective, transparent and non-discriminatory criteria. This allows airport operators to charge an access fee<sup>13</sup> to ground handlers for access to airport installations. This is in addition to any charges for cost related services such as issuing airside passes, or for centralised infrastructure.

3.29 Table 3.8 shows which of the visited airports levy access fees, if there are particular services subject to an access fee, and if self and third party handlers are treated the same in this respect.

**Table 3.8: Summary of access fees**

Airport	Are certain handling services subject to an access fee? <sup>1</sup>	Charging base	Same charge for self and third party handler?	Remarks
Vienna	Yes	Per Work Load Unit	Yes	Each of the 11 handling categories has a specific fee
Brussels	Yes	Per Work Load Unit <sup>2</sup> or per activity	Yes	
Copenhagen	No			
Helsinki	Yes	Percentage of turnover	No	De-icing and fuel services only
Lyon	No			Cancelled
Nice	Yes	Per passenger / baggage / m2 used on the apron	Yes	Referred to as fee for service provided (not paid by carriers)
Paris-CDG	No			Postponed <sup>3</sup>
Toulouse	Yes	Fix fee plus variable	Yes	Not paid by carriers

<sup>13</sup> At some airports, access fees are termed concession fees.



		fee per traffic unit		
Frankfurt	Yes	Percentage of turnover	Yes	Not all self handlers are paying
Hamburg	Yes	As a rule a percentage of turnover	Yes	Not all handlers are paying
Munich	Yes	Per Work Load Unit	Yes	Not all self handlers are paying
Nuremberg	Yes	Per Work Load Unit or per activity	Yes	Not all self handlers are paying
Stuttgart	Yes	Percentage of turnover	Yes	Not all self handlers are paying
Athens	Yes	Per Work Load Unit	Yes	Not purely a commercial fee
Heraklion	Yes	Self handling: per passenger Third-party handling: 2% of turnover	No	
Dublin <sup>4</sup>	Yes	Percentage of turnover and per litre throughput		Catering and fuel services only
Milan-MXP	Yes	Per Work Load Unit	Yes	Cost related charge for use of common airport facilities
Naples	No			
Rome-FCO	Yes	Percentage of turnover	Yes	Cost related charge for use of common airport facilities
Luxembourg	No			
Amsterdam	Yes	Volume based	No	For fuelling and third party catering
Faro	Yes	Percentage of turnover or per activity	No	
Lisbon	Yes	Percentage of turnover or per activity	No	
Barcelona	Yes	Percentage of turnover	Yes	Category 11 (catering) only
Fuerteventura	Yes	Percentage of turnover	Yes	Category 11 (catering) only
Madrid	Yes	Percentage of turnover	Yes	Category 11 (catering) only
Palma de Mallorca	Yes	Percentage of turnover	Yes	Category 11 (catering) only
Tenerife Sur	Yes	Percentage of turnover	Yes	Category 11 (catering) only
Stockholm	Yes	Percentage of turnover or per activity	Yes	
Belfast	Yes	Percentage of turnover		
Birmingham	Yes	Percentage of turnover or per activity	No	Called a licence fee
London-LHR	No			
Manchester	No			

(1) Not necessarily for all handling services

(2) Per passenger or per 100 kg of freight or mail

(3) According to ADP access fees are postponed until the French legal authorities reach a new decision.

(4) Aer Rianta noted that it is currently in the process of working to deliver a protocol which will define a relevant, transparent and equitable basis to ensure comparable charging structures to apply for both third party and self handlers. Aer Rianta mentioned it does not charge access fees, but concession fees.

3.30 It may be seen from Table 3.8 that at 25 of the 33 airports visited access fees are levied. In general the charges base for access fees is a percentage of turnover or charges are set per Work Load Unit or per activity (e.g. meal). Very few airports do not treat self handlers the same as third party handlers. It may also be seen from Table 3.8 and Table 3.9 that not all categories of handling services are subject to access fees at the airports.

3.31 To the extent that we were able to collect information (in some cases airport treat access fees as confidential), we present the level of the access fee in Table 3.9.

**Table 3.9: Level of access fees**

Airport	Access Fee?	Charging base	Remarks
Vienna	Yes	Charges depend on ground handling category, for example: Passenger handling: € 0.15 per departing passenger Baggage and ramp handling: € 0.13 per Work Load Unit	Each of the 11 handling category a specific fee
Brussels	Yes	Fee is € 0.25 per passenger and per work load unit. Exact level is volume based depending on the service categories provided. According to BIAC it applies a non-discriminatory distribution in terms of percentages of the basic fee over the various ground handling service categories. Catering is charged separately (percentage of turnover).	
Copenhagen	No		
Helsinki	Yes	Percentage of turnover	De-icing and fuelling
Lyon	No		
Nice	Yes	Passenger handling: € 0.03 per passenger Baggage handling: € 0.06 per passenger Freight handling: € 4.56 per tonne Ramp handling: € 19.69 per m2 used on the apron Other charges are for aircraft services and line maintenance	
Paris-CDG	No		
Toulouse	Yes	Categories 1, 2, 3, 4, 6, 9 and 10: € 0.53 per passenger or 100 kg of freight Categories 5.7, 8 and 11 are 5%, 3% and 9% of turnover	Handlers do not pay
Frankfurt	Yes	Percentage of turnover	
Hamburg	Yes	As a rule a percentage of turnover Passenger handling: € 0.18 per departing passenger	Between 5% and 9% of turnover
Munich	Yes	Per Work Load Unit Passenger handling: € 0.46 per departing passenger Baggage and ramp handling: € 0.26 per WorkLoad Unit	
Nuremberg	Yes	Ramp handling: € 0,28 per Work Load Unit Push back: € 5,11 Catering: 4,3% of the turnover	Ramp handling relates to categories 5.2, 5.3, 5.4 and 5.5
Stuttgart	Yes	Ramp handling: 6.5% of turnover (up to €3.83m turnover), 7.0% of turnover (up to € 460m turnover), 7.5% of turnover (up to € 537m turnover), 8.0% of turnover (over € 537m turnover)	

Athens	Yes	Per Work Load Unit € 0.6 per departing passenger € 0.3 per 100 of freight	Each of the handling category a specific fee (excl. category 7 and 11); also related to certain infrastructure costs (e.g. use GSE apron parking area)
Heraklion	Yes	Self handling: per passenger Third party handling: 2% turnover	
Dublin	Yes	Percentage of turnover and per litre throughput	Catering and fuelling are the only two categories subject to access fees
Milan-MXP	Yes	€ 0,16 per Work Load Unit	
Naples	No		
Rome-FCO	Yes	Percentage of turnover (3%)	All categories
Luxembourg	No		
Amsterdam	Yes	Fuelling: third party and self handling Catering: third party handling only	
Faro	Yes	Self handling: € 0.15 per Work Load Unit Third party handling: 3.5% turnover	
Lisbon	Yes	Self handling: € 0.15 per Work Load Unit Third party handling: 3.5% turnover	
Barcelona	Yes	Percentage of turnover	Levied before the Directive
Fuerteventura	Yes	Percentage of turnover	Levied before the Directive
Madrid	Yes	Percentage of turnover	Levied before the Directive
Palma de Mallorca	Yes	Percentage of turnover	Levied before the Directive
Tenerife Sur	Yes	Percentage of turnover	Levied before the Directive
Stockholm	Yes	Percentage of turnover or per activity Ground handling fee for passenger handling: €0.37 per passenger Ground handling fee for ramp handling: € 0.42per MTOW	All activities in AHM 810
Belfast	Yes	Percentage of turnover	
Birmingham	Yes	Percentage of turnover or per activity	
London-LHR	No		
Manchester	No		

## **Centralised infrastructure**

3.32 Article 8 of the Directive allows Member States to reserve for the managing body of the airport (or another body) the management of the centralised infrastructure (CI) used for the supply of ground handling services whose complexity, cost or environmental impact does not allow for division or duplication. The airport operator may make it compulsory for suppliers of ground handling services and self-handling airport users to use these infrastructures, and may also charge for the use of these facilities. Member States are obliged to ensure that the management of these infrastructures is transparent, objective and non-discriminatory and, in particular, that it does not hinder the access of suppliers of ground handling services or self-handling airport users. Table 3.10 summarises the facilities defined as CI at the airports visited.

3.33 It may be seen that although there is a core set of facilities defined as CI at most airports, there are variations. The core set includes amongst other areas the baggage transportation system (or parts of it), fixed power installations, the fuel system and facilities for water supply. Of the 33 airports visited, 10 have not formally defined CI, because in most cases the airport operator, airlines and handlers have not found this of additional value.

**Table 3.10: Summary of centralised infrastructure**

<b>Airport</b>	<b>Baggage transportation system (or parts of it)</b>	<b>De-icing facilities</b>	<b>Passenger bridges</b>	<b>Fixed power installations (400Hz)</b>	<b>Fuel system/ station</b>	<b>and/or toilet servicing</b>	<b>Check-in desks</b>	<b>Marshalling</b>	<b>Other</b>
Vienna	X	X	X	X			X		Transfer desks, air bridges, container storage area, environmental control
Brussels	X		X	X	X	X	X	X	Equipment for the provision of pre-conditioned air (PCA), decompression chamber and radio trunking
Copenhagen	X	X			X			X	Bus transportation between terminal and aircraft
Helsinki	X			X			X		
Lyon									Not defined
Nice	X								
Paris-CDG	X	X			X				Waste water treatment
Toulouse									Not defined
Frankfurt	X	X	X	X	X	X <sup>1</sup>			Flight information system
Hamburg	X		X	X		X		X	Loading stand (parking position), disposal system for garbage and stationary plant for air conditioning
Munich	X	X	X	X	X	X		X	Loading stand (parking position), Flight information system and noise protection hangar
Nuremberg	X	X	X	X	X	X			Docking guidance system, loading stand (parking position), movement control and airport information system
Stuttgart	X	X	X	X		X		X	Flight information system, loading stand (parking position), cargo loading system
Athens	X		X	X	X	X	X		Baggage reconciliation system (BRS), baggage make up areas, ULD storage racks, passenger baggage trolleys, parking area for GSE and vehicles, lost & found storages, preconditioned air at contact gates, flight information display system (FIDS)
Heraklion									Not defined
Dublin									Not defined
Milan-MXP	X	X	X	X	X				Flight information system, general information to public and warehouse facilities for

									perishable goods of animal or vegetable origin, live animals and radio actives
Naples	X								General information to public, station administration and supervision
Rome-FCO	X		X	X	X	X			CUTE, general information to public, centralised aircraft air conditioning, centralised sewage waters and aircraft solid waste treatment systems and FIDS
Luxembourg	X	X			X	X			
Amsterdam						X			
Faro									Not defined
Lisbon									Not defined
Barcelona	X	X	X	X	X	X	X	X	Terminal buildings, security check points, FIDS and public announcement systems, power supply systems, telephone network, baggage make-up areas, GSE parking areas, water treatment plants, engine test area, aircraft cleaning platform.
Fuerteventura	X	X	X	X	X	X	X	X	
Madrid	X	X	X	X	X	X	X	X	
Palma de Mallorca	X	X	X	X	X	X	X	X	
Tenerife Sur	X	X	X	X	X	X	X	X	
Stockholm	X			X					Electrical installations, aircraft support equipment, ramp surveillance equipment, airport support tunnel
Belfast									Not defined
Birmingham									Not defined
London-LHR									Not defined
Manchester									Not defined

(1) The facilities for fresh water supply and toilet servicing are part of the CI in Frankfurt, not the service itself.

## 4 National administrations

### Introduction

4.1 This section presents the information which we have received from National Administrations, following a letter/e-mail at the end of January and further requests for assistance to the non-responding administrations. We begin by noting any differences between national legislation and the Directive, and then present any comments which the National Administrations have made. Two National Administrations provided us with a substantial number of comments: summaries may be found in Appendices E and F. During some airport visits we also met with National Administrations to discuss the Directive.

4.2 In some Member States, the responsibility for the Directive has been delegated to another organisation. For example, in Ireland, the Commission for Aviation Regulation, in addition to a primary role in the economic regulation of Ireland's airports and air travel industry, is also responsible for the implementation and enforcement of the Directive. In this report, the term 'national administration' is used to include such autonomous or semi-autonomous bodies.

4.3 Table 4.1 gives an overview of the national legislation, which we have received. As may be seen, all national administrations provided us with the national legislation. It also clear that the speed of implementation after the Directive has been different across the Member States. The United Kingdom was the first Member State to implement the Directive in October 1997 and Sweden was the last in April 2000. When contacting national administrations, we also invited any comments which they might have on the Directive. Eight administrations took this opportunity.

**Table 4.1: National legislation received**

Member State	Language received	Date of legislation		Comments of National Administration
Austria	German	21 July 1998		No
Belgium	Dutch & French	Brussels	12 November 1998 (amended 31 October 2001)	No
		Flemish	17 December 1999	
		Walloon	24 March 2000	
Denmark	Danish	9 December 1997		No
Finland	Finnish	7 November 1997		Yes, during visit
France	French	5 January 1998		Yes
Germany	German	10 December 1997		No
Greece	Greek	7 September 1998		No
Ireland	English	16 December 1998		Yes
Italy	Italian	13 January 1999		Yes
Luxembourg	French	19 May 1999		Yes
Netherlands	Dutch	4 February 1998		No
Portugal	Portuguese	23 July 1999		No
Spain	Spanish	2 July 1999		Yes
Sweden	Swedish	6 April 2000		Yes, during visit
United Kingdom	English	3 October 1997		Yes



## National legislation and comments from National Administrations

4.4 We now present a comparison of the national legislation and the Council's Directive for each of the Member States, supplemented with the comments that the National Administrations had.

### Austria

4.5 The national legislation has been supplied by the Federal Ministry for Transport, Innovation and Technology. We have not received comments on the Directive. In September 1999, the Commission sent a letter to the National Administration in Austria, as some provisions of the Austrian legislation did not comply with the requirements of the Directive. The provisions relate to the following issues:

- Ground handlers must be majority owned or controlled by natural or legal persons of the European Union. The Directive does not impose any condition of ownership or control, but only allows the Member States the right to require that suppliers must be established within the Community.
- Authorisation for part of the services of a certain category of ground handling (see country report in Appendix E) will not be permitted. For the handling categories that are unrestricted, supply of services cannot be limited according to the Directive. For the limited categories, the body selecting the parties can express in the tender that bundling of services is preferred, due to limitations with regard to space, capacity etc.
- Article 4 in the Austrian legislation limits the number of suppliers and self handlers directly to two at all Austrian airports. Under the Directive such a limitation should be airport specific.
- According to Article 6.3 of the Directive, from 1 January 2001 one of the third party handlers should be independent from the airport and from an airport user who carried more than 25% of traffic. In the Austrian legislation, this is from 1 January 2003.
- If after 31 December 2002 a second supplier besides the managing body of the airport hold a valid authorisation for one of the categories of handling services, and this supplier is not identical with the user with the largest volume of traffic units over the preceding calendar year (Austrian Airlines at Vienna), then authorisation for this category has to be granted to the user with the highest number of traffic units. The Commission considered that this provision (paragraph 4 in the Austrian legislation) favoured Austrian Airlines in being granted a third party licence. The Ministry commented that the provision deals with limited ground handling services. In addition two self handlers per category of the ground handling services mentioned in paragraph 4.1 (baggage, ramp and freight handling) can be allowed as well.
- Paragraphs 4.5 and 4.6 allow the Member State to grant exemptions also for reasons of operation and traffic safety, whereas according to the Directive space and capacity problems can only give rise to such exemptions.

- The Austrian text refers to all airports open to commercial traffic and for certain articles to Vienna Airport only. Under the Directive specifications concerning a given airport should be stated in a regulation to the situation at the airport.

4.6 With reference to the letter of the European Commission the Federal Ministry for Transport, Innovation and Technology stated that it had researched the issues with regard to changing the legislation and suggested changes to the Austrian Parliament. However, because of elections and the lack of political will there has been no progress so far.

## **Belgium**

4.7 In Belgium there are three different pieces of legislation related to ground handling, for which three different administrations hold responsibility. The Ministry of Communications and Infrastructure is the competent authority for Brussels National Airport (Royal Decree dated 12 November 1998), the country's main airport. The Flemish government is responsible for Antwerp and Ostend airports (legislation dated 17 December 1999) and the Walloon government for Liege and Charleroi airports (legislation dated 24 March 2000). None of the administrations submitted comments on the Directive.

4.8 The Royal Decree for Brussels airport has been amended by another Decree of 31 October 2001, on the initiative of the government, following the collapse of Sabena. The most important aspect of this amendment is that it allows the transfer the licence of a selected handler to another company in case of bankruptcy (under the same conditions), subject to approval from the airport operator (in this case BIAC).

## **Denmark**

4.9 The national legislation was submitted by the Civil Aviation Administration (DCAA). DCAA has informed us (in writing) that the implementation has not led to any problems. Representatives from Copenhagen Airport consider the market to be fully open and find the Directive implemented to the maximum extent possible.

## **Finland**

4.10 The national legislation came from the Finnish Civil Aviation Administration (FCAA). It informed us during the visit to Helsinki that it considered the market to be fully open and the Directive to be fully adopted in the national legislation.

4.11 During our visit to Helsinki, the FCAA indicated that it regards the ground handling Directive and its national legislation as being somewhat strict and rigid. It is apprehensive about the lack of flexibility, since it is the Finnish culture not to have such detailed regulations: in Finland potential problems are solved among the stakeholders by means of open discussions. This has proven to work very effectively in the past. The FCAA would like in the future to see the Commission recognising such approaches and concerns amongst the peripheral Member States.

## France

4.12 The French legislation was received from the French CAA (DGAC). The Directive was enacted by the Legislative Decree 98-7 published in January 1998 and Decree 98-211 published in March 1998. This was later completed by two ministerial orders dealing with the approval issued by the DGAC for ground handlers and the separation of accounts for airport operators.

4.13 The French legislation specifies the reasons why airports might be limited: capacity, safety or/and security. The Directive did not mention in Article 7 criteria for selecting self handlers at limited airports, while the French legislation specifies that the criteria should be the number of movements performed at the considered airport.

4.14 According to the French legislation, should an airport be limited, an airport operator's own handling division is not required to go through a tender process and is *de facto* selected.

4.15 Lastly it is worth noting that there is no provision in the French legislation relating to the transfer of staff in proportion to the transfer of activity. Only if the entire activity is transferred, Article L.122.12 of the labour code applies and requires the compulsory transfer of all staff. However, as a result of social pressure, the representative body of employers' federations recently agreed with unions to amend some of the collective agreements in use in the ground handling industry. These new agreements would now make compulsory the transfer of staff but the company taking over the activity would still be free to decide on the number of staff it wished to take on.

4.16 We have received comments from the DGAC. The DGAC has witnessed a significant increase in the level of competition at major airports with between three and five providers. Despite not having access to price information, the DGAC believes prices have been significantly reduced where competition is effective but has noticed some increases for particular services such as passenger transport at the Paris airports. In terms of quality, the DGAC does not have objective criteria on which to base its assessment, but believes that significant price decreases, extensive reliance on sub contracting and social difficulties are elements not in favour of an increase level of quality. Regarding social aspects, despite the development of a specific collective agreement prior to the implementation of the directive, the DGAC has ascertained a deterioration of ground handling employees' social situation and an increase in the number of social protests.

## Germany

4.17 The national legislation in German was provided by the Federal Ministry of Transport, Building and Housing. We have not received comments. The BADV<sup>14</sup> enacts the Directive in German legislation, and was adopted on 10 December 1997. It contains a number of differences from the Directive, which we now discuss. These

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<sup>14</sup> BADV stands for 'Bodenabfertigungsdienstverordnung'

differences arise largely for historical reasons: airport operators were traditionally the monopoly providers of ground handling services (especially on the ramp).

4.18 German legislation gives German airport operators the right to require that new entrants take over staff from the airport managing body in accordance with the handling services passing to the new supplier. Article 8.2 in the BADV states that the employees shall be chosen on the basis of objective criteria, especially in respect of the activity they carry out. Furthermore, Article 9.3 allows airport operators to increase the level of fees charged for access to airport installations if ground handlers have not taken over staff from the airport operator on their entry into the market.

4.19 The Commission considers that this constitutes an infringement on competition. It has opened an infringement procedure against Germany on the basis of Article 226 EC Treaty, as it takes the view that the relevant articles of the German national legislation contain an incorrect transposition of the Directive. The Commission has sent its Reasoned Opinion on the matter to the German authorities in March 2002, requesting that they take measures to comply with that opinion<sup>15</sup>.

4.20 The number of third part handlers and self handlers for different ground handling categories for each of the airports above the threshold values in the Directive are specifically defined in the German legislation.

## **Greece**

4.21 The Ministry of Transport and Communications provided us with the national legislation. We have not received comments on the Directive. In Greece there are three levels of legislation regulating ground handling namely:

- Presidential Decree (No. 285 of 7 September 1998) which enacts the EC Directive into Hellenic legislation;
- Basic Regulation (Ministerial Decision No. D3/B/555470/8714 of 15 January 1999) which outlines the responsibilities and duties of Hellenic Civil Aviation Authority (HCAA) and airport managing bodies, as well as, minimum requirements for provision of ground handling services by third parties and by self-handled carriers; and
- Local Regulation which regulates the provision of ground handling activities at each Greek airport affected by the Presidential Decree and Basic Regulation. The managing body of an airport or airport system produces the Local Regulation for airport(s) under its control and must be approved by Ministry of Transport and Communications before it is enforced.

4.22 The Local Regulations for new “Eleftherios Venizelos” (Athens)<sup>16</sup> and Heraklion<sup>17</sup> airports were provided by their managing bodies, Athens International Airport S.A. (AIA) and the HCAA respectively.

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<sup>15</sup> Case number 1998/5036.

<sup>16</sup> Ministerial Resolution No. D3/B/37696/6702 of 2 September 1999

4.23 An aspect in the Greek legislation is that the airport operator has the option to have a pre-selection procedure for the candidates of a tender process. The procedure and minimum selection criteria are outlined in detail in the Basic Regulation. In Athens the specific criteria and relevant weights used for the evaluation of proposals are defined and referred in AIA's Local Ground Handling Regulation. Under the current legal framework, sub contracting and pooling of ground support equipment between handlers is prohibited.

## **Ireland**

4.24 The national legislation was sent by the Commission for Aviation regulation (CAR). It is the CAR, not the Minister for Public Enterprise, that has a regulatory role in respect of the ground-handling industry in Ireland<sup>18</sup>.

4.25 The main variations between the Directive and the national legislation are the following:

- More specific guidelines for the running of the AUC: It should meet at least once a year and the managing body of the airport should consult the AUC together with the ground handlers in relation to the price and the organisation of those handling services for which an exception has been granted pursuant Article 10.1b. This relates to reservation to a single supplier of one of more categories of services.
- The dates referring to certain thresholds in the Irish legislation differ slightly from those in Article 1 of the Directive.
- Article 14.3 of the Irish legislation states that where access to airport installations gives rise to the collection of a fee, the fee shall be determined by the managing body of the airport and approved by the Minister (now the CAR) in advance.
- Article 16 sets out the different procedures in place under the Irish law with regard to appeals.
- According to Article 18, the managing body of the airport shall provide a statistical return to the Minister (now the CAR).
- Article 19 relates to the freedom of the Minister (now the CAR) to specify the scale of fees payable in respect of an application for a ground handling approval. At present there is no such fee.

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<sup>17</sup> Ministerial Resolution No.

<sup>18</sup> CAR is an independent regulatory body, which was established pursuant to the Aviation Regulation Act, 2001. It regulates airport and terminal service charges and has numerous other functions, including the functions of the Minister under the ground handling Directive.

4.26 A number of comments related to the Directive and the CAR's experiences with implementing and enforcing it have been submitted to us. The comments relate to the following issues (more details are given in Appendix E)<sup>19</sup>:

- Lack of awareness of the legislative regime;
- Separation of accounts;
- Sub contracting;
- Insurance requirements; and
- Access to installations.

### Italy

4.27 ENAC, the civil aviation authority, is in charge of the implementation of the decree in Italy. ENAC has provided us with a copy of the Italian legislation. The Directive was enacted by the Legislative Decree 18/99 of 13 January 1999.

4.28 ENAC has made a number of written comments on the Directive. ENAC is unclear whether the Directive can be applied to the Italian General Aviation because it only refers to airports open to commercial traffic. Furthermore, it argued that the Directive does not properly discuss airport fees, in particular access fees (especially how they are "itemised"). During our visit to Italy, we met with representatives from ENAC, but no specific comments were made about the Directive.

4.29 From other meetings in Italy it has become clear that there are three articles in the national legislation that cause difficulties: Articles 13, 14 and 20<sup>20</sup>. A provision of Article 13 requires ground handling providers to have a registered capital greater than 25% of their revenues. Article 14 relates to the social protection of workers, and requires the transfer of workers (under the same terms) between ground handling companies in proportion to the transfer of activity. Article 20 ensures that the actual contracts in force at the airport at the time of implementation of the Directive can remain in place until expiry.

4.30 The Commission has opened an infringement procedure against Italy on the basis of Article 226 of the EC Treaty, as it is viewed that Articles 13 and 14 of the Italian national legislation incorrectly transpose Article 18 of the Directive, while Article 20 contains transitional measures that are not permitted by the Directive. The Commission has sent its Reasoned Opinion on the matter to the Italian authorities in July 2001, requesting that they take measures to comply with that opinion<sup>21</sup>.

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<sup>19</sup> The CAR has raised these issues to draw attention to some of the practical situations that arise in the provision of handling services and which do not always sit neatly within the provisions of the current legislative framework.

<sup>20</sup> We have not translated the decree into English so our analysis of the differences between the Directive and the Italian law relies on information gathered during our interviews.

<sup>21</sup> Case number 1999/4472

## **Luxembourg**

4.31 The national legislation, in French, was provided by the Ministry of Transport. According to the National Administration, the Directive has been fully implemented in Luxembourg.

4.32 The National Administration commented that the main benefit as a result of the Directive is that it has opened up competition. On the other hand it has found many practical difficulties in the Directive's implementation, relating to the infrastructure and space for accommodating a second handling agent. It was mentioned that, for instance, this meant that there was a need to physically split the cargo handling operation, which is not very efficient but which was the only option available. No comments or recommendations were made on the Directive itself.

## **Netherlands**

4.33 The Dutch legislation has been provided by the Ministry of Transport, Public Works and Watermanagement. No comments on the implementation of the Directive or on the Directive itself have been received.

4.34 The Directive has been fully implemented in the Netherlands. Some articles in the Dutch legislation require a specific role of the Minister of Transport, Public Works and Watermanagement in co-operation with the airport operator: the definition of centralised infrastructure and the establishment of criteria for new ground handling entrants.

## **Portugal**

4.35 A copy of the national legislation has been received from INAC, the Civil Aviation Administration, a relatively young organization created in 1997 when the national airport and air navigation entity (ANA E.P.<sup>22</sup>) was divested from regulatory powers. INAC has not provided us with comments.

4.36 Decree-Law No. 275/99 published by Ministry of Infrastructure and on 3 July 1999 enacts EC Directive into Portuguese legislation. This provides a transitory regime that protects the rights of the incumbent operators for both self and third party handling services, because no tender process has been organized at the airports of Lisbon, Oporto and Faro. The transition period has elapsed (on 1 January 2001), and no tenders have taken place yet. At Lisbon airport this further means that the obligation for independence from the airport authority or dominant carrier under Article 6.3 is not met.

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<sup>22</sup> ANA E.P., Public Enterprise for Airports and Air Navigation Services. ANA E.P. was divided and corporatised into two separate organisations in 1999: ANA Aeroportos de Portugal S.A. (airports) and NAV E.P. Navegação Aérea (air navigation services).

## Spain

4.37 The national legislation has been sent to us by the Civil Aviation Administration. Differences between the national legislation and the Directive were discussed during the visit to Spain.

4.38 The Directive was incorporated into Spanish law through Royal Decree 1161/1999 of 2 July 1999 and Royal Decree 99/2002 of 25 January 2002. The National Administration has commented that the national legislation on the opening of ground handling market was set at 1 million passengers or 25,000 tonnes of cargo, lower than the threshold set by the Directive (initially at 3 million passengers or 75,000 tons of cargo). By June 1997, all 16 Spanish airports with higher traffic volume had a second ground handling agent for ramp services (passengers and cargo).

4.39 The Civil Aviation Administration has also noted that it is responsible for authorisation of entrance of handlers, as specified under Article 14 in the Directive. Aena is responsible for activities and implementation at the airport level (including the signing of contracts)<sup>23</sup>.

## Sweden

4.40 The national legislation has been received from the Swedish Civil Aviation Administration (SCAA). It should be noted that the SCAA is part of the same organisation as the operator of all major airports in Sweden. In our meeting with SCAA it was stated that Stockholm-Arlanda's ground handling market is totally open.

4.41 During our visit we received some comments from the SCAA on the Directive. It is SCAA's view that as the handling market in Stockholm is fully liberalised and potential entrants do not have to apply for the full range of services, it is possible for handlers to 'cherry pick' from services as specified in the Annex to the Directive.

4.42 SCAA expressed its concern about an element that in their view is missing in the Directive. This relates to possible lack of continuity in case a handler decides to leave the market. In this situation, the airport could be left with the problem of insufficient providers of handling services. A possible solution would be to introduce a notice period for a handler to leave the market, during which the airport operator could find alternative providers.

4.43 SCAA also stated that it is in favour of a Service Level Agreement with handlers in order to keep quality at or above a desired minimum level: this eventually should be done on a European level. In its view this also means that some sort of sanction should become possible.

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<sup>23</sup> Aeropuertos Espanoles y Navegacion Aerea



## United Kingdom

4.44 The responsible government department in the UK, the Department for Transport, Local Government and the Regions (DTLR<sup>24</sup>), referred us to its website where the national legislation is published. The UK implemented those parts of the Directive that required action by Member States, but not those parts where action was voluntary, such as Articles 14 (approval for licenses from independent body of the airport) and 18 (ensure social and environmental protection). The DTLR has supplied us with a paper from the UK CAA which plays the major role in implementation of the Directive.

4.45 The DTLR considers it is worth bearing in mind that at airports where entry is not restricted, airport operators believe that the Directive effectively prevents them, as managers of the airports, from establishing appropriate entry criteria, including quality thresholds. Consequently, unsatisfactory handlers may cause operational disruption until the market identifies which are the handlers preferred by airlines. This might suggest a case for allowing airports to set reasonable entry criteria within the spirit of the Directive for all handlers to meet, not EU-wide but on a local level to reflect the wide range of circumstances at airports.

4.46 The DTLR also notes the UK ground handling market was relatively competitive before the Directive came into force, particularly at the larger airports. The continuing move since the implementation to a more commercial approach to airport management and increasing competition would most likely have resulted in further liberalisation of ground handling without the Directive. In its view this makes it difficult to say what the impact of Directive has been.

4.47 The DTLR further remarked that while the benefits of liberalisation might have been achieved in the UK without the need of the Directive it should not, for example, be forgotten that UK airlines will have benefited from the greater competition that the Directive has been able to introduce at other European airports and which would not otherwise have happened.

4.48 The key elements from the paper provided by the CAA can be found in Appendix S. The CAA comments relate to the following issues:

- Costs and benefits arising from the Directive;
- Constraints to market access;
- Rules of conduct;
- Functioning of the Airport User's Committee; and
- Separation of accounts.

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<sup>24</sup> Now the Department for Transport (DfT)

## 5 Issues emerging

### Introduction

5.1 In this Section, we describe the more significant issues that have emerged during the course of our consultations. In addition to the issues discussed here, a number of others have also been raised by particular parties, although these concerns were less widespread and therefore potentially may be of more local interest.

5.2 It is also worth noting that the major issues that have arisen have been in relation to baggage, ramp and cargo handling: other areas such as passenger handling have been significantly less the focus of attention of the stakeholders we have consulted.

5.3 Lest this Section appear as a litany of difficulties and problem areas, it should first be recognised that in general airport users have noticed an improvement in the provision of ground handling services since the introduction of the Directive in terms of quality and especially price. Equally, most considered that progress had not been as fast as hoped/expected and that significant further improvement was both possible and necessary. We should also note that we have not included in this Section all elements of the Directive that parties had no problems with. Only the problem areas in the opinions of the stakeholders consulted are identified.

5.4 It is generally viewed that it is not just the Directive which has brought about changes to the ground handling market. Changes in the industry and the market itself, such as continuous cost cutting of airlines and consolidation among handlers, have also had a significant impact on quality and price. Indeed, a number of parties believe it is not possible to differentiate between the cause of the improvement.

5.5 During our consultations we indicated to stakeholders that we very much welcomed comments supplied to us in writing, in order to avoid the potential for misunderstanding. The comments we received varied widely. Some parties have produced extensive inputs, others have presented the key issues of their concern, while a number have not felt the need to follow-up our meetings with written submissions. We have endeavoured to incorporate the different contributions presented to us, doing justice to the scale and scope of each contribution. This ultimately results in some stakeholders being mentioned more frequently than those who have not provided us with information.

5.6 In discussing each issue, in general we first identify the relevant article of the Directive and then describe the concerns. When stakeholders have different views, we describe the concerns of the various interest groups. We illustrate the discussion with examples that have been reported to us, although not always identifying explicitly the individual parties concerned. In some areas, we also offer a perspective on the background to the issue. We commence, however, with a general overview of the more important issues which we have found.

## Summary

5.7 There have been general concerns expressed by users and independent handlers about the process of **opening up the market** and the different rates of adoption of legislation in the Member States. There has been criticism of the national administrations for not being sufficiently diligent and active in implementing the Directive. Stakeholders have opposing views on the thresholds and the minimum or maximum number of handlers. Airport operators feel they have lost control on quality levels, airlines believe the market forces should decide on those issues.

5.8 There are weaknesses in the **tender process and selection criteria**, particularly where the issue of conflict of interest of the selecting bodies arises. In two Member States, only one of the several required tender processes has taken place. In general, when tenders have been held, there have been difficulties in the selection phase. The determination of relevant but objective selection criteria is difficult, a problem arising because the parties<sup>25</sup> selecting the independent handler have no involvement in its later engagement as a handler/service provider. In some cases, users found themselves unheard and selection criteria were perceived to favour particular handlers. The primary selection criterion generally adopted by airport users (i.e. airlines) when appointing a ground handler is price, provided that quality meets a certain minimum standard.

5.9 Handlers had problems with the relative shortness of the period for which they have been granted a licence. Airport operators expressed concern about possible lack of continuity and insurance coverage, while bundling or cherry picking of handling services were also the subject of discussion. There were also issues in relation to the Annex to the Directive that covers the categories of handling services.

5.10 The independent handlers believe that the **involvement of the airport operator in ground handling** has given rise to various forms of abuse of dominant position, whereby the airport can combine ground handling services with products that a third party handler cannot offer. In one case, this led an independent handler to withdraw from the market. There were concerns of stakeholders about possible cross subsidisation of handling activities by airports from other aspects of their business. On the other hand, airports considered that independent handlers have an advantage from their multi-airport offerings, providing the ability either to cross-subsidise operations between different countries or to offer a wider geographic (and hence more attractive) service to international airlines.

5.11 **Airport Users' Committees** appear to have varying degrees of involvement in the selection process, and even where their views are sought, they are not always respected. At some airports, representatives of the AUC have expressed the view that they are not fully recognised by the airport operator as a serious discussion partner. There is no consistent representation on the AUCs throughout the Member States. Voting procedures on AUCs can sometimes bias a preferred selection towards the candidate favoured by the largest carrier (that may self-handle or have no

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<sup>25</sup> The airport operator or the Member State (or representative agency) if the airport operator is engaged in ground handling activities.

ability/intention of changing its supplier of ground handling services). In general, there is support for clearer rules on the functioning of the AUC.

5.12 The size of the market available and the **degree of competition** was a concern of the independent ground handlers. The definition of self-handling is relevant here, with airlines and independent handlers taking opposing views on whether the definition should be widened to include franchise operations, alliance partners and wet-lease operations. The integrated cargo carriers also consider that their efficiencies are greatly hampered by the inability to handle what they consider to be their own operations at their overnight hubs.

5.13 The relative smallness of the truly contestable market at some airports has an impact on the finances of ground handling companies: a number noted the very low level of their profitability and suggested that the level of competition should not be widened further. However, there are duopoly situations where there has been limited competitive pressure on the independent handler, since its competitor was not a commercial option for some airlines. Some airlines expressed the view that the requirement for a minimum of only one handler independent of the major airline suppressed the competitive pressure on that independent handler.

5.14 At airports where there had previously been a monopoly supplier of ramp services (be it the airport operator or the base airline), new entrant handlers had encountered some problems in enlarging market share, and in particular capturing the business of the largest airlines at that airport. Handlers generally considered that the impact of airline alliances was that alliances have more purchasing power, although airlines mentioned that they are able to choose a handler individually, despite being part of alliance.

5.15 In a number of cases, independent handlers expressed the view that their presence at an airport was used merely as a negotiating lever for airlines to obtain better contracts from their existing suppliers. This should be recognised more as a commercial business issue, although it does arise from the achievement of one of the objectives of the Directive.

5.16 Few new entrant handlers had complaints about their **allocation of facilities** (e.g. ground service equipment (GSE) parking areas, offices, crew rooms), even when the airport operator continued as a competitor: although facilities were not always ideally located, the practical difficulties preventing the airport operator from doing any better were in general appreciated. Although the allocation of the commercial facilities for airport users (viz. check-in desks, gates, and stands) was not always done on a transparent basis, it generally drew little criticism from users and their agents. Practical difficulties were encountered by airport operators when considering breaking existing contracts for offices etc. in order to accommodate newcomers. Lack of space was a common concern among all stakeholders.

5.17 Of greater concern to users and to independent handling agents were the application of **access fees**<sup>26</sup> and fees for the use of **centralised infrastructure**,

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<sup>26</sup> Sometimes termed “concession fees”.

particularly in situations where the airport operator also participated in the ground handling market, notwithstanding the provision for separation of accounts.

5.18 Access fees are levied on either a turnover and/or an activity basis, the latter approach being often adopted to deal with the issue of self-handlers (with no turnover). In general, airlines regarded access fees as additional and unjustified charges; independent handlers saw them as potentially distorting the market in relation to the treatment of self-handlers and/or the participation of the airport operator as a handling agent; while the airport operators viewed them as a reward for allowing independent handlers access to a potentially profitable business activity.

5.19 Similar views were expressed by airline users and independent handling agents in relation to the charges for the use of centralised infrastructure (CI), again especially when the airport operator was also a handling agent. Many stakeholders felt that they were being double-charged for facilities (once via the CI charge, and once via the airport aeronautical charges), and in general, users considered there was a lack of transparency in the cost information which was provided to them.

5.20 Although there was a core set of facilities defined as CI in most airports, there were variations. In certain airports, users were consulted and a consensus established in the airport community on the definition of CI that was most appropriate for that airport given its physical constraints. However, independent handlers were concerned at the proportion of their costs represented by CI, and felt that airport operators were seeking to maximise the assets defined as CI, again especially where they were also competing handlers. A relatively high charge for CI restricts the flexibility that an independent handler has when deciding the price offered to an airline for a handling contract.

5.21 The other major component of a handler's costs is that for labour, and theoretically that may also be "fixed" in certain Member States. In these States, national legislation contains measures for the **protection of employment**, including some transfer of employees from existing to new handlers upon change in an airline's ground handling supplier. In practice, traffic growth and often a relatively high turnover in staff appear to have restricted the potential importance of this issue. Work councils and unions have indicated various negative consequences resulting from the implementation of the Directive, related to deteriorating **social aspects**, safety and security. The competitive pressure in the ground handling market also fed through to wage rates, causing some independent ground handlers concerns on safety and security standards.

5.22 In some Member States, **sub contracting** gave rise to problems, especially with regard to the legal position in relation to approvals where one ground handler has sub contracted ground handling activities to another.

## Opening up of the market

5.23 The EU Directive aims to open up the access to the ground handling market. As the EU legislation is a Directive and not a Regulation, Member States need to adopt the legislation in national law. A number of parties considered that the legislation should be a Regulation. It is the view of some parties that the actual implementation of the Directive in some Member States has been slow, while in other

Member States it had quickly been fully adopted. It is also viewed that the Directive leaves too much room for interpretation by the Member States who read the Directive to their own advantage. AEA<sup>27</sup> expressed the view that monopolistic situations on the ramp (through local exemptions) have been blessed by the European Commission. BMi considered that while the UK has been very quick and far-reaching in liberalising the market, Germany and Mediterranean countries have different interpretations of the Directive. It is perceived by some parties (e.g. IACA) that this calls for a Regulation instead of a Directive. British Airways mentioned that some airports have used the Directive to secure their own handling position and hide behind narrow and restrictive interpretations of the Directive to prevent modernisation and liberalisation.

5.24 Some parties have raised concerns about local regulators. For example, in Italy ground handling companies, AUCs and to some extent airport operators complained about the lack of a clear institutional framework and the lack of a strong and efficient regulator in Italy able to organise, regulate and monitor the liberalisation process. In the Netherlands, the airport operator also perceived support from the Ministry to be lacking.

5.25 Stakeholders have different opinions about the results of the Directive. For instance, IACA considers that the Directive has failed to deliver improved quality or reduced costs, but its introduction has added unnecessary complexity, bureaucracy and costs. On the other hand, ACI Europe expressed the view that the intended degree of competition, freedom of choice and reduction of costs have generally been achieved by opening up the market. According to ACI Europe it is also a matter of fact that a decrease in prices is usually considered as the first consequence in a liberalisation process; attractive prices for capturing markets being the priority. ACI Europe mentioned it will be equally important to assess the development of the market since the phenomenon of concentration and a consequent increase in prices are always possible.

5.26 Independent ground handlers made it clear that the first benefits of the Directive have been for the airlines. IAHA is of the opinion that airlines have used new handlers as a tool to negotiate better deals with incumbent handlers. It considers it important to make airlines aware that they need competition and thus need to give some encouragement to independents to keep that competition. FHG mentioned that airlines define the price and then competition is on price. They “shop around” and expect the quality level to remain unchanged. Indeed airlines indicated that in the current times, if there is a choice, an airline must choose the best value for money offer, expecting the quality to be good.

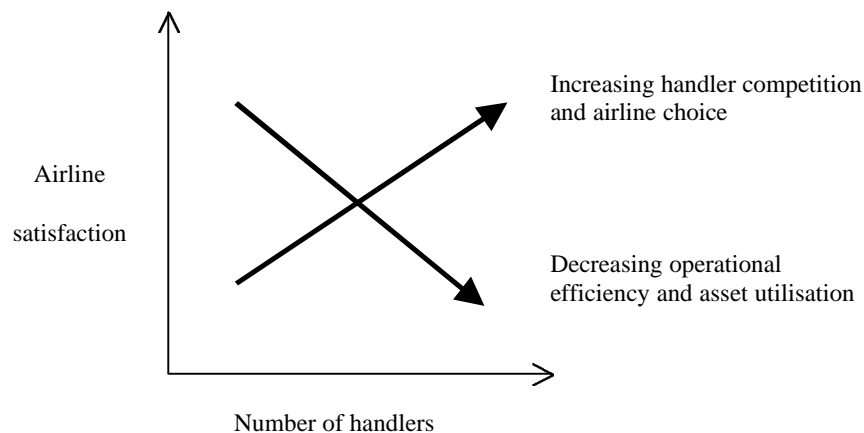
5.27 AEA mentioned that airlines as providers of handling services have learnt that their ‘golden’ monopolistic years are over. At the same time, airlines do see benefits at outstations where they have experienced positive developments as users of handling services.

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<sup>27</sup> Though IATA was not consulted directly in this study, the comments in this Section made by AEA and the airlines are in line with the views submitted by IATA.

5.28 While the Directive prescribes a minimum number of handlers, a maximum number is not defined. It is the view of BAA at London LHR that in addition it would be useful to take a maximum number of handlers into account, as it is the community (the airlines) that finds the marginal benefits of additional handlers limited (a test of reasonableness is missing in the Directive). In this respect, Schiphol Group pointed out that there are opposing objectives between the number of handlers and airline satisfaction, and explained this with help of Table 5.1: though an increase in the number of handlers increases competition and choice it also leads to a decrease in operational efficiency and asset utilisation.

**Figure 5.1: Balancing opposing objectives**



Source: Schiphol Group

5.29 Several airport operators (e.g. in Copenhagen and London LHR) have complained that with the opening up of the market, airports have lost control over the quality of handling service. If passengers experience service problems as a result of insufficient handling service (e.g. long check-in queues on departure or long waiting time for baggage on arrival), it is the opinion of the airport operators that the passengers will blame the airport. The rationale is that passengers do not recognise the handler as the party being responsible. Airports argue that they should be given more influence on quality levels<sup>28</sup>. BAA has argued that it is vitally important that the quality of service in handling is safeguarded to ensure that:

- The passengers (who are direct customers of the handling agents) have their needs met;
- The reputation of airlines, handlers and airports is protected; and
- There are no knock-on effects on other passengers or airlines of one handling agent's actions.

<sup>28</sup> Copenhagen Airport identified the difficulty that setting quality standards could lead to higher ground handling prices, which can lead to potential airlines not choosing to fly to Copenhagen when they consider new destinations.

5.30 ACI Europe has suggested that the quality level of a supplier or an airline doing self handling has direct and important repercussions on the level of service and even the management of the whole airport. Delay or poor quality in delivering baggage at arrival affects the image of the airport, while delay or absence of sufficient equipment for transporting passengers between the aircraft and the terminal may disturb the efficiency of the airport system to the detriment of other airlines. Airports do not currently have power for requiring suppliers to respect levels of quality, especially relating to the number of busses used or check-in counters opened. Poor service could also affect safety and security at the airport. Airports do not have legal power for exercising control or for doing background checks on the handlers' staff. The Directive should be completed by a real power of control exercised by the airport for ensuring security and safety as requested by national legislations and minimum quality standards allowing an efficient management of the airport system. Such minimum quality levels defined at the level of each airport would ensure the normal operation of the airport in terms of quality, but also security and safety. ACI Europe mentioned they would not prevent agreements between airlines and their suppliers for setting higher standards for their activities

5.31 The airport operator in Köln believes that handling companies should be monitored to comply with legal regulations and industrial standards (i.e. ISO or AHM parameters). In addition to the issues mentioned above, Aer Rianta indicated that poor service quality by ground handling companies (such as long waits for baggage delivery, long queues for check-in) can also have the following detrimental effects for airports:

- Congestion resulting in inefficient use of facilities. This is particularly serious in the current situation where European airport capacity is limited;
- Damage to minimum connect times which can hamper the development of a strong transfer passenger segment.

5.32 Handlers have a different view, namely that the quality level is a contractual arrangement between the handler and its customer airline: the airport operator should not interfere with this: airlines will take action if handlers provide poor service. The third party handler Checkpoint B in Hamburg argued that the implementation of minimum quality levels is complicated when the airport itself is involved in ground handling. British Airways stated that minimum service levels could then become the airport's own standards, which would be a big burden on the small independent handlers (they could not achieve these high standards because they have smaller handling volume), but the airlines would be better in creating neutral minimum service levels.

5.33 Airlines share the view with handlers that the quality level is a contractual arrangement between the handler and its customer airline. Airlines noted that prices for handling services are of more importance than the service level. For example BMi mentioned that if you have a choice as an airline, you choose for the lowest price offered, expecting the quality to be good.

5.34 In fully liberalised markets, quality issues are more a concern than in non-fully liberalised markets. Manchester Airport stated that there are concerns that because the UK government did not include within the implementation regulation the



requirement for handlers to be licensed, there are difficulties in enforcing standards of service. This is a particular difficulty with an open ground handling market as opposed to a limited market where handlers are required to tender to provide a service.

5.35 Airport operators find it is difficult to have SLAs signed by handlers (especially by self handlers) and they have taken different initiatives to attempt to control quality levels. For example, a draft SLA has been compiled by Aer Rianta and was distributed to the AOC for discussion, but no significant discussions have taken place in respect of this draft. Aer Rianta has issued a new bye-law (a local airport law) in an effort to effect an improvement in service quality at check-in. Birmingham Airport has an incentive scheme for handlers: if a handler reaches its service target it gets a discount on the access fee. The airport operator at Manchester airport has agreed with the AUC that licences include minimum standards with respect to health, training, safety and SLAs, to fill a gap in the Directive. In the terms and conditions of use of Manchester Airport, there is a clause which requires airlines to use only contract handlers with a licence<sup>29</sup>. At London LHR, a handling company can lose its licence if it continuously fails to meet performance standards (a special review process is implemented for this purpose)<sup>30</sup>. BAA's handling licences include a review process which is initiated when poor performance is evident: this requires an action plan and allows for an escalation process in the event that remedial action is not taken. However, the only punitive action that can be taken is serving notice on a handler, which is viewed as an extreme action. BAA would find it helpful to have the opportunity to fine repeatedly poor performing handlers.

5.36 Some handling agents indicated they would have no problem in signing an SLA with the airport operator as long as there were reciprocal arrangements with the airport in providing sufficient facilities and staffing. Ryanair, for instance, would like to see proper staffing levels at security check-points first.

5.37 Airports and handlers/airlines have different views on the extent to which the opening up of the handling market should take place. The German Airports Association (ADV) would like to see no further reduction in the threshold values of Article 1, because of the volume of business at smaller airports and the administrative effort it requires<sup>31</sup>. Furthermore, it would like to see in any future Directive transfer to airport managing bodies the right currently with Member States to limit, without further justification (such as on grounds of capacity or security problems) the number of third party and self handlers which have been authorised to provide the services in the categories with restrictions. In its view this is based on the subsidiarity principle: the Member States, who know the local airport situation better, take on the responsibility for continued liberalisation of the market. It is also based on the fact that lack of explanation for such a limitation has been faulted in various legal disputes

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<sup>29</sup> Though not all handlers have signed this license yet (e.g. Servisair and Aviance).

<sup>30</sup> So far this has never happened.

<sup>31</sup> Other airport operators (e.g. FWAG in Vienna) mentioned this as well.

over the selection procedure<sup>32</sup>. Fraport considered it too early (after one and a half years of operations) to review the Directive and to decide about possible changes. Other airport operators (e.g. in Düsseldorf) indicated that the opening up of the market had led to new economic impetus (stimulation of innovation).

5.38 Many stakeholders believe the airlines should select the new entrant in a limited market. The airport operator at London LHR is of the opinion that in an open market user involvement should also include determination of the *number* of handlers as well. BAA Airports noted that there is no provision in the Directive for a situation where all the airlines at an airport decide that they only want one supplier of handling services and want a restriction to only one supplier. Similarly, the users at Heraklion Airport were surprised with the HCAA decision to raise to three the number of licences awarded, even though their recommendation was for two suppliers only (this coincides with the initial airport recommendation of two handlers). BAA Airports further remarked that changing the ground handling market at London LHR could be very difficult. It does not want to lose the laboriously reached equilibrium: it considers that competition is sufficient and the European Commission should focus on the areas where competition has not been achieved yet.

5.39 ACI Europe is of the opinion that a limitation of the number of handlers has to be determined according to each local situation at the airport or part of the airport concerned. Raising the number of handlers on a general basis would in its view not be a viable solution for a market that so far has not always yielded profit to the participants.

5.40 IACA indicated that its members fly to the smaller regional airports within the EU and these destinations are often under the thresholds of the Directive as specified in Article 1. As self handling is not a financially viable option, IACA therefore supports a further opening up of the market at these smaller airports, by lowering the thresholds or, better, that the concept of thresholds be shelved altogether. IACA argued that handling companies would not seek to exploit markets unless there is the prospect of a profitable operation. IACA also mentioned that safety and security had not been jeopardised at airports where there is a liberalised ground handling market. Any attempt to introduce further possibilities for stifling competition on the grounds of safety and security (or any other reason) must be rejected in its view, nor must reasons of safety and security be used by airports to frustrate competition when their real concerns are related more to political dogma and industrial reasons. Space, capacity, safety and security derogations mean that many airports will continue to ignore the Directive and can maintain a ground handling monopoly in perpetuity.

5.41 Some stakeholders mentioned that instead of using only traffic volumes as thresholds for opening up the market, attention should be paid to the structure of the market. For example, the airport operator in Nuremberg stated that the structure of the volume of the contestable market should be taken into account when considering the opening of the market, especially at smaller airports. GlobeGround in Amsterdam

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<sup>32</sup> ADV is also of the opinion that airports, which are affected for the first time by the regulation of Article 6 and 7 due to an increase in traffic, must also have the option of applying for exemptions according to Article 9.

is of the opinion that before going into full liberalisation, there should be a deep market analysis to get a feeling from airport operators on how many handlers might be expected to operate profitably. Besides, thought should be given to what the critical mass is for a handler<sup>33</sup>. A number of parties expressed the view (e.g. Swissport) that the maximum number of handlers should be determined by the airport operator and the users on a local level and not by means of thresholds in the Directive. Swissport in Basel noted that liberalisation of the ground handling market makes certainly sense at airports with a certain volume, but having two or more handlers at airports with 2 to 4 million passengers per annum does not make sense in its view, as the individual businesses become unviable. The Directive should therefore be limited to airports with more than four million passengers per annum.

5.42 Some users are concerned about the number of handlers that an airport can support, taking into consideration not only traffic throughput, but also other conditions such as size of contestable market, traffic seasonality, etc. As mentioned at Heraklion Airport, several users were surprised with the HCAA decision to raise to three the number of licenses awarded. The AUC is convinced that three suppliers are not economically feasible bearing in mind the airport's operational conditions: high seasonality (75% traffic between April and October) and a limited contestable market. All handlers confirmed to us that they considered it almost impossible for three handlers to make any money under current market circumstances. The AUC is concerned that such a trend could negatively impact service standards due to cost cutting pressures and threaten long-term viability.

5.43 BMi and British Airways share the opinion that in the Directive there should be a higher minimum number of handlers, but maximum limits can be left to market forces and fair competition. BMi raised the issue that airlines are surrounded by monopoly, or quasi-monopoly, service providers who are often not exposed to the pressures of the commercial world (e.g. ATC, GDS, CRS and Airports). AEA supports this view that liberalisation should be viewed in a broader perspective: other areas should be regulated as well. Air France is of the opinion that all airports with more than two million passengers should have a minimum of three handlers.

5.44 British Airways stated that with limited number of licences at many airports (in many cases the minimum permissible), it has been forced to contract with a greater number of suppliers of handling services than it would desire. Difficulties are compounded by differences in supplier licences and start dates across different terminals at the same airport. It argued that therefore airlines have not been able to make significant cost savings and were unable to develop relationships with strategic regional suppliers or reduce their overall number of suppliers significantly. It had not been able to develop a coherent handling policy across Europe and implement strategic alliance procurement.

5.45 A number of airport operators mentioned that the Directive required airport operators to commit significant management resources into ensuring compliance

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<sup>33</sup> Aviapartner estimates the critical mass for a viable business to be about 40 to 45 flights per day, comparable to euro 10 million turnover per year. High volume is necessary as the economies of scale are large.

without so far seeing any specific benefits. BAA Airports believes that the benefits from any revised Directive would be unlikely to outweigh the costs incurred in developing and implementing it. Action by the EC should focus on situations where the existing Directive has yet to be fully implemented.

5.46 Lufthansa stated that Article 21 should be changed in such a way that it becomes clear that ground handling companies and the AUC have the right to appeal against decisions taken pursuant to Article 6.2 and 8 in addition to the Articles currently mentioned.

5.47 Some parties (for example the airport operator in Birmingham) indicated that that customer service considerations are not catered for in the Directive. It focuses purely on opening up markets to competition: prices are driven down through increased competition, which may also result in lower levels of customer service to the passenger. British Airways mentioned that nowhere in the debate on ground handling is attention paid to the passenger.

5.48 BAA Airports noted that, although impossible to quantify, the increase in the number of handling agents and the turnover of handling agent contracts has negatively impacted upon safety and security. It expressed the view that the risk of safety incidents would therefore have risen if BAA management had not made continued efforts to tackle these risks.

### **Tender process and selection criteria**

5.49 Under Article 11, Member States shall take the necessary measures for the organization of a selection procedure for suppliers authorised to provide ground handling services at an airport where their number is limited.

5.50 Article 11.1(c) provides that suppliers of ground handling services shall be chosen following consultation with the Airport Users' Committee by the managing body of the airport, provided the latter (i) does not provide similar ground handling services; (ii) has no direct or indirect control over any undertaking which provides such services; and (iii) has no involvement in any such undertaking. BIAC considered that the Directive was not sufficiently clear regarding the interpretation of the third condition.

5.51 Independent handlers and airlines pointed out that the parties selecting the independent handler have no direct involvement in its later engagement as a service provider. It is generally felt by AUCs that they should have more influence on the selection of the new providers. In Germany, on several occasions the final choice of the local Ministry has been different from the preference of the AUC (e.g. in Stuttgart and Nuremberg). This also happened at Paris CDG.

5.52 Additionally, IAHA made clear that it considers there may be a conflict of interest during the selection of a ground handler to compete with an airport's handling organisation. In Germany, for example, the Ministry is not necessarily an independent party, as it is a shareholder and the regulator of the airport, while the

airport operator is a competitor of the new entrant<sup>34</sup>. Lufthansa also questioned the neutrality of the Ministry and did not understand why the airlines as users were not involved in the selection process, as they have the interest to change handler. IACA believes that the selection of new competitors is heavily influenced by the national carrier and airline partners, and is very often contrary to the interests of the rest of the users (and airports try to influence those selection decisions).

5.53 GlobeGround considered that it experienced a conflict of interest in Brussels. It believes that the airport operator which (together with the AUC) decided on selection, had a commercial interest in selecting the incumbent handlers (Aviapartner and Sabena), because it had long term contracts with both parties. GlobeGround has legally challenged these awards, and also has doubts on the process that has allowed FCC to come into the market by buying the licence of bankrupt Sabena, an acquisition which was facilitated by an amendment to the Royal Degree of 31 October 2001<sup>35</sup>.

5.54 Swissport Vienna is of the opinion that generally throughout the EU relatively small handling agents have been selected in order to reduce the competition with the airport operator's handling business<sup>36</sup>. Swissport in Hamburg pointed out that the weakest competitor, in both financial and operational terms, had been selected. If voting had taken place on a one-airline-one-vote basis, it considers the outcome would have been different: Menzies or Swissport would have been preferred. Swissport favours more clear guidelines for the selection process.

5.55 In light of the above, IAHA believes that in the second tender at Stuttgart to fill the position created when Servisair withdrew, Losch was chosen because it would offer the least competitive pressure to the airport's own handling activity. Despite a joint venture with the airport operator (FSG), the Ministry considered Losch not to be controlled by the airport managing body<sup>37</sup>. According to IAHA, the Ministry was of the opinion that the staff take-over commitment and the opinions of the AUC, the airport and its work council were the decisive factors. Other criteria, such as handling experience, the quality and the price of the service were given secondary importance. The AUC was in favour of Aviapartner, although the work council preferred Losch. FSG pointed out that the voting result of the AUC was that 7 users (45% of MTOW share, including the 38% MTOW share of Lufthansa) were in favour of Aviapartner and 20 users (35% of MTOW share) were in favour of Losch. According to the Ministry, Losch was selected because it intended to co-operate closely with FSG in joint use of GSE. Losch also required less space from the airport than other candidates (FCC and Aviapartner). IAHA made clear that in its opinion, this selection confirmed that too much freedom (evident risk of biased decisions) is left to Member

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<sup>34</sup> To overcome this problem, the CAA in Vienna was supported by an external consultant in the tender process, but AUC recommendation was different from decision of CAA.

<sup>35</sup> Further details can be found in the Appendix on Belgium.

<sup>36</sup> It is viewed by Swissport that this is not applicable to Vienna, because the airport has lost several customers to the new entrant VAS Handling.

<sup>37</sup> Losch already had a joint venture with FSG for boarding support and ramp handling services (FSG holds 51% and Losch Airport Service GmbH holds 49% of the shares of the joint venture)

States under Article 11 of the Directive. FSG mentioned that after Losch won the second tender, Servisair began legal action to come into operation again.

5.56 As mentioned earlier, some Mediterranean airports have experienced a slower than expected pace of liberalisation. In Portugal, the process of opening up the market was subject to a transition regime that protected the rights of the incumbent handlers (mainly TAP as it was a monopoly ramp supplier). Additionally, the airport operator decided to enter handling market (in a joint venture with Fraport) and was able to do so without the need to tender, as of course allowed under the Directive. These two are the only ramp handlers at the three main Portuguese airports (viz. Lisbon, Faro and Oporto). Even though the Directive's deadline of 1 January 2001 for having at least one handler that is independent of the airport managing body and of any user carrying more than 25% of traffic has passed, no tender competition for an additional handler has as yet taken place. We were informed that INAC plans to tender a third licence at Lisbon by the end 2002. In the case of Faro, the airport operator believes that there is no need for a tender because TAP's market share is less than 25% of traffic (around 8%), and therefore it fulfils the requirement for an 'independent handler'.

5.57 IAHA has difficulties with the selection criteria to be used in the Portuguese tenders. The selection procedure under Article 11 is a procedure to which the Community legislation on public procurement does not apply. This implies that Member States can attach certain conditions or impose limitations to this procedure<sup>38</sup>. IAHA is of the opinion that too much freedom is left to Member States: in the Portuguese tenders, consortia of handlers can be excluded from the selection process.

5.58 In Greece, the HCAA opened up the market at the old Athens airport (Hellenikon) as soon as the Directive was enacted into national legislation, although the pace for opening up handling at regional airports has been slower: Heraklion and Thessaloniki airports were only opened in May 2001 and early 2002 respectively; while tenders for Rhodes and Corfu airports are planned for last quarter 2002 and early 2003 respectively.

5.59 The Greek tender has been conducted in two different stages: a pre-qualification phase and a final tender. Provision for such an approach is made in the Greek legislation (Basic Regulation) that gives all managing bodies an option to conduct a pre-qualification process before issuing an invitation to tender (ITT). Furthermore, the same piece of legislation provides guidance for the selection procedures as well as minimum pre-requisites for the licensing process and certain criteria to be included by the airport operator in the request for proposal documentation. Some stakeholders have expressed concern with the application of pre-qualification criteria, as they could be perceived as a hurdle to accessing to the market. AIA does not agree with this, as it indicated that the pre-qualification criteria used were transparent, objective and non-discriminatory and the participants were pre-qualified on a higher-score basis and not on pass-or-fail basis. Some stakeholders also challenge such approach on the basis that the Directive does not provide any specific recommendation on its use and that any interested party should be able to

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<sup>38</sup> As explained to IAHA by the European Commission in a letter of 20 February 2002.

participate in the tender process. To illustrate the impact upon the tender process, in the tender for the new Athens International Airport “Eleftherios Venizelos” (Sparta) conducted in 1999, a total of 12 parties expressed interest, but only 7 were pre-qualified: subsequently 3 were appointed as handling suppliers.

5.60 Participants in the tender processes in Spata and Heraklion encountered problems with the selection criteria for the two licences available at each airport to compete with the incumbent, Olympic Airways. According to IAHA, the two tender procedures attributed decisive weight to selection criteria that discriminated in favour of handlers already operating in Greek airports, as existing personnel and GSE were given high marks in the evaluation of candidates. In the end, the selection for Spata and Heraklion was extremely tight, and the above criteria made the difference (overturning the votes in the respective AUCs). AIA mentioned that the tender criteria as well as the relevant weights employed by AIA, are in details depicted in AIA’s Local Ground Handling Regulation as well as in the request for proposal documentation. In this light, the weights attributed to categories of Participants’ Operational concept related to equipment, personnel, training, safety and security were pre-defined, thus according to AIA making impossible to discriminate in favour of the existing handlers. Moreover AIA believes there might be some confusion between the tender conducted by AIA and the certification requested by the HCAA after the tender process: the selected ground handlers were asked to demonstrate their actual ability in terms of personnel and equipment before the HCAA granted their licenses (that is a provision of the licensing process).

5.61 Furthermore, IAHA informed us that some candidates were eliminated during what, in its view, was a “dubious” pre-selection procedure, and were consequently not even given the chance to submit detailed offers during the actual selection process. In light of the above AIA made clear that they do not agree with this: during the pre-qualification phase AIA followed the requirements of the Directive and of the fundamental principles of the public procurement rules as those are set out in Community legislation. It was indicated that the pre-qualification stage is not separated and excluded from the tender procedure since according to community and national legislation and jurisprudence the pre-qualification stage is part of a tender procedure.

5.62 In Spain, the liberalisation of handling activities started in 1993 and was completed by 1997 when the Spanish Government opened up the handling market at all airports with an annual throughput above 1 million passengers by appointing an independent handler. The legal framework used during such liberalisation did not allow for a body where airport users could voice their views/concerns on handling issues, such as an AUC, a body first defined in the Directive. Therefore, users were not consulted during the first tender process. The new legal framework provides for consultation with airport users in future tender processes.

5.63 The tender process at Paris CDG has been criticised by stakeholders, because it was organised in two distinct phases. In Terminal 1 (where Air France has no flights and the Star alliance represents more than 25% of the voting rights at the AUC), a first tender was launched for one licence (ADP’s handling function being *de facto* selected). Air France was selected by the DGAC, despite being only the third preference following the AUC vote. In a second phase, a second licence was tendered and GlobeGround, thanks to the larger representation of Star Alliance airlines in the

AUC, was selected by the AUC, the DGAC thereafter complying with the AUC preference.

5.64 IACA considers that Italy has not complied with the Directive, since as yet there are no second handlers in place, Milan and Catania airport operators still having handling monopolies. Only in Rome, has a tender taken place, although one is in preparation for Milan Malpensa<sup>39</sup>. Naples and Venice have allowed competition since October 2001. While Naples is an unrestricted airport, no third party handler has yet taken advantage of this opportunity.

5.65 According to Aviapartner the two of the selection criteria in the Rome tender (quantity of equipment and management structure) favoured the two self handlers already in place (Alitalia Airport and EAS<sup>40</sup>). Alitalia Airport complained that in the contract part of the tender there was a clause prohibiting sub contracting even for non-restricted activities. Aviapartner identified many irregularities in the tender, for example it claims that EAS had bought cheap outdated ground equipment and even rented equipment from ADR Handling (that it eventually returned to ADR after the selection process) in order to score highly on the this criterion. Alitalia mentioned that the AUC had not been consulted at all in the selection process in Rome. Furthermore, Aviapartner suggested the selection criteria drafted by ADR included discriminatory and abusive provisions against the handlers. For example, it included clauses which gave ADR the power to ask for confidential information, and to fix the minimum standards for the quality of services. Handlers are also forced to accept the prices for the services provided by ADR, which are not negotiable. ADR 's view is that prices for aeronautical airport charges, CI and use of common facilities are not negotiable to provide a relevant, objective, transparent and non-discriminatory criteria of pricing for all competitors. British Airways found the new supplier not credible: it did not have equipment in the first three months of operations and is currently not able to handle wide body aircraft. This limited British Airways' options and, *de facto*, it is therefore still limited to one supplier.

5.66 British Airways considers that airport operators and the authorities should be involved in the selection process, but only in the pre-qualification process where they create the framework for qualification, but then the users (airlines) should decide on selection. It is of the opinion that the works council should not have a vote in selecting new entrants: an example in Germany, where there has been no transfer of staff to new entrants, illustrates the fact the there is no necessity for their vote. Otherwise this leads to works councils indicating their preferred competitor. British Airways also noted that there should be minimum social standards though (EU social law) as part of the pre-qualification.

5.67 At several airports (e.g. Berlin Tegel, Paris CDG and Vienna), it has only been possible to apply for bundled services (Vienna airport indicated that bundling of services of mentioned in the law and was not defined by the airport). According to

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<sup>39</sup> The airport operator SEA indicated it is currently preparing the tender.

<sup>40</sup> Alitalia Airport 100% owned by Alitalia and EAS 100% owned by Air One.



Lufthansa, this creates the problem that the airport operator defines the extent of bundling and thus has considerable influence on competition.

5.68 The ADV and some individual airports made clear that the EC's official journal does not have an appropriate rubric for the tender. This has already caused difficulties for airports in legal disputes. Opening up of the market was postponed at three airports because defeated applicants had filed appeals against the selection procedure. IAHA stated that generally airports struggle with the tender process, as there is no standardised basis for the publication of tenders.

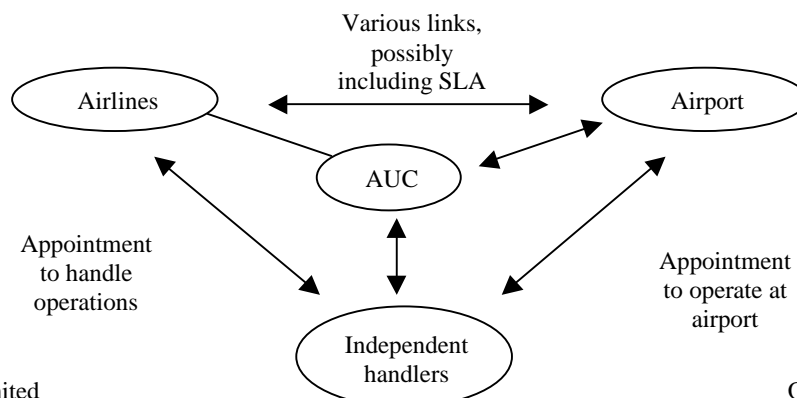
5.69 ERA believes that in the interest of transparency it may be beneficial to include within the Directive some general criteria by which competing tenders might be judged. The Directive could also include a requirement for the decision maker to provide feedback to companies on why their tender was either successful or unsuccessful.

5.70 BIAC considers that it appears strange that while the airport managing body is considered to be competent to select the third party handlers and set the selection criteria (when their number is restricted as provided in Article 6.2 of the Directive), it is not competent to set the criteria for the selection of self handlers (when their number is restricted as provided in Article 7.2 of the Directive). BIAC indicated to us that the European Commission seems to accept this reasoning (according to EC Document of 13 June 1997).

5.71 BAA noted that it has been difficult to know how to involve airlines in the selection of ground handlers, and how to take the price of handling into consideration. This has been a particular issue during the tendering process at Gatwick. It believes that it is unlikely that airlines and handlers would wish to openly discuss the prices of handling contracts, as required under Article 13 of the Directive. Consolidation of two handlers at Gatwick (which is restricted to four handlers in the limited categories) means that one licence has to be re-tendered. The airport operator has recently started this process, but expressed its concern that this will result in a price-cutting market again, with possible implications for safety and security standards.

5.72 One of the causes of difficulties in this area may arise because while the *commercial* selection of handlers is done between airlines and handlers, the *legal* appointment (required by the Directive) is between airports and handlers (Figure 5.2).

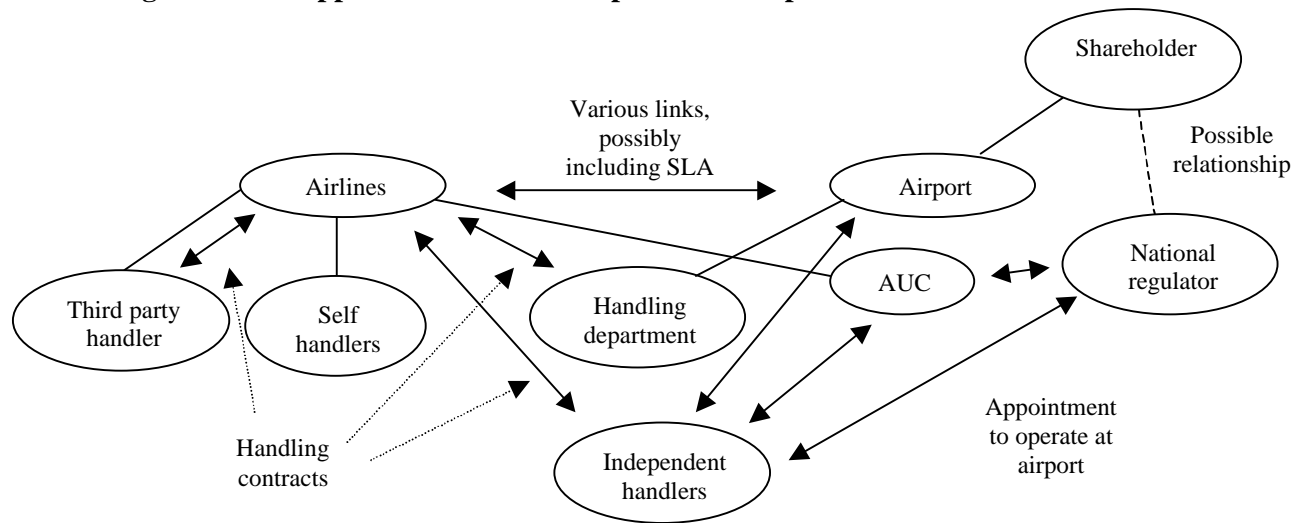
**Figure 5.2: Appointment relationships: simple model**



5.73 In this simple model, the airport operator is the body which is required under the Directive to select the independent handler(s) to operate at the airport. The AUC exists to advise on this selection, but the role is purely advisory. Having been appointed, the independent handlers must then obtain contracts from individual airlines in order to activate operations and take commercial advantage of their selection success. From our many discussions, the primary selection criteria used by airlines is price, service quality being either assumed or enforced via Service Level Agreements (SLAs) or another form of contract.

5.74 In practice, the relationships are often very much more complex than this, as a result of both airport operator and/or airlines acting as handlers, in the latter case either as self-handlers and/or as third party handlers. When airport operators are engaged in handling activities, under the terms of the Directive, selection of independent handlers becomes the responsibility of competent authorities of the Member State which are independent of the managing body of the airport. For the Member States where airport operators do undertake competitive ground handling activities, the governmental selection body is often either the major (or only) shareholder in the airport operator, a situation which can create the perception of a confusion of interests (Figure 5.3). It may be appreciated from consideration of this figure that an already difficult situation is often very much more complicated.

**Figure 5.3: Appointment relationships: more complex model**



5.75 In view of these very real difficulties arising from the structure and history of the industry, it may be appropriate to consider alternative selection/appointment processes. Two possibilities have been suggested to us during the course of our investigations:

- An **auction** organised by the airport operator (or appropriate regulatory authority) for the right to operate at the airport; and
- **Selection** by the airlines based on contract negotiations directly between the airlines and aspiring ground handling companies.

5.76 An auction would have the merit of introducing a clearly objective parameter into the selection procedure. However, it is difficult to see how there could be any difference in the bids made by independent handlers that did not involve increased costs to the airlines: using bid proceeds to off-set the costs of centralised infrastructure would produce the same for all bidders. An auction approach would also probably not be feasible if the airport operator were engaged in handling activities.

5.77 Selection by the airlines would be based around a series of bi-lateral contract negotiations between airlines and independent handlers. The handler(s) that agreed the largest traffic volumes in its contracts would then be selected and available for any other carriers that might wish to appoint a different handler. This approach would also have the benefit that the new entrant ground handler could establish at the airport with a certain business volume secure. One significant disadvantage of such approach would be the very considerable burden on several independent handlers and a number of airlines of negotiating a series of potential contracts: the effort required for this might be such a disadvantage that it outweighed the other attractive features of such an approach.

## Licence

5.78 Under Article 11, suppliers of ground handling services are selected for a maximum period of seven years in a limited market. We have received comments from handlers and airlines (e.g. Acciona Airport Services and Lufthansa) on the period for which they have been granted licences. Handlers find even the maximum seven year period too short to make major investments (e.g. in staff and equipment), without running serious business risks. If the period is even shorter, handlers consider that setting up a viable business becomes more difficult. Checkpoint B stated that it is nearly impossible to earn back the investment in such a limited timeframe. According to BAA, handlers have been dis-incentivised from making long term investments or devising long term strategies also because of the short term nature airline contracts and commitments.

5.79 IAHA considered that the maximum seven year licence period as stipulated by the Directive is too short to amortise investments and build up a viable business, and shorter periods (for instance the four years in Munich) represent a most difficult challenge (described by IAHA as “an impossible task”) for new market entrants. The challenge becomes even more difficult, if the newcomer is the competitor of a ground handler owned/controlled by the airport.

5.80 Athens Airport experienced a 30% to 40% decrease in handling charges. In this respect the airport noted that handling charges have fallen below costs, with an inevitable impact to the ground handlers’ viability. According to the airport operator, as a result the ground handlers claim that the 7 years licence period is not sufficient for recovering and making a reasonable profit.

5.81 IAHA also argued that if by chance or skill the newcomer was too "aggressive" (successful) a competitor to the (incumbent) airport handler, it was likely to be threatened not to have his licence renewed (such threats have apparently been voiced at some airports). Consequently, IAHA requested that some safeguards be devised to ensure that independent handlers whose licence is expiring are not unfairly discriminated when new tenders are organised.

5.82 Independent handlers consider it unbalanced that airport operators when acting as handler are not subject to the same rules as the independent handlers. In relation to this, GlobeGround noted the licensing period of seven years (in limited markets), while IAHA mentioned the non-participation of airport operators in tender processes.

5.83 According to SEA (the operator of the Milan airports) Article 20 of the national legislation gives all handlers that were present in 1998 (i.e. before the introduction of the Directive) the right to continue operating without any selection for six years from the date of issue of the decree. Alitalia Airport, Aviapartner and GESAC handling have complained about use of this Article. For instance, at a number of airports in Italy, such as Bologna, Firenze and Pisa, the airport operator used to subcontract some ground handling services to organisations called 'cooperativa'. These organisations do not have to apply standard labour contracts and are therefore able to offer very low costs. This creates some difficulties, since, on one-hand, the airport operator has the right under Article 20 to continue sub contracting work to these organisations, but on the other hand, new handlers are prohibited from sub contracting work, therefore potentially distorting competition.

5.84 Some airport operators (e.g. SCAA and BIAC) expressed their concerns about an element that in their view is missing in the Directive. This relates to possible lack of continuity in case a handler leaves or decides to leave the market. In this situation the airport could be left with the problem of insufficient providers of handling services. SCAA suggested that a possible solution would be to introduce a notice period for a handler to leave the market, during which the airport operator could find alternative providers.

5.85 The concern of BIAC related primarily to a situation where a handler is in a state of administration, bankruptcy or liquidation, or some similar situation under national law or legislation of a Member State. In such a situation, while handling activities may not be stopped, they may, at least temporarily, be continued by a team of commissioners or trustees, until a sale/disposal takes place or the business is otherwise re-financed or wound-up. A selection procedure organised by the airport operator would in this case be in conflict with the interest of continuity of a going concern and could/would jeopardise a sale/disposal. According to BIAC, the Directive does not provide the framework to resolve this. BIAC therefore suggested that in such a situation a transfer of the ground handling licence under the conditions applicable to the initially selected supplier, and provided that the managing body grants its approval, should be permitted.

5.86 Some airport operators informed us that there should be possibilities for the airport to offer licences for bundled services only. This would prevent handlers from cherry picking from the possible handling services to be offered. Copenhagen Airports would like to see a better definition regarding the Annex, which should point out that the handling companies are obliged to deliver all the services mentioned in a

category. For instance, at Manchester Airport only full licences are issued, cherry picking is therefore not an option, but sub contracting is possible for handlers.

5.87 BIAC indicated that both the definition of self handling and the definition of supplier of ground handling services start from the idea that the handlers provide one or more categories of ground handling services. BIAC could not determine the exact importance adhered to the notion of ‘categories’ from the words of the Directive. It has argued that where the number of handlers is limited, it would be more logical to require that handlers provide/ apply for a total category of services (in order to reasonably limit the number of operators and, for example, to prevent certain self-handlers only choosing the most profitable services to the detriment of the selected third party handlers). To illustrate the practical implications of this matter, BIAC mentioned that they are confronted with self handling airlines that want to perform some specific activities themselves, e.g. crew transport. BIAC is less concerned about this danger of cherry picking, and consequently about the strict application of the notion of ‘categories’, in the categories where the number of handlers is unrestricted.

5.88 BIAC also stated that it could also be suggested that some ground handling services within a category could become a separate category, e.g. catering transport, passenger transport, transport of freight and mail between the aircraft and the airport building and transport of baggage between the aircraft and the airport building. BIAC argued that this could improve operations significantly as the catering production, the passenger handling, the freight/mail warehousing, the baggage handling and the respective transport to the aircraft are in reality an integrated and continuous process, which should not be interrupted with handover points.

5.89 BAA believed it would have been helpful if the Directive had made it clearer that self handling airlines should be required to obtain a ground handling licence in the same way that suppliers are required to obtain a licence. This would more clearly put them on the same footing as third-party suppliers and would aid the airport managing body’s efforts to develop a safe, secure and efficient airport operation.

5.90 Some airports (e.g. Fraport and BIAC) mentioned that the list of categories as specified in the Annex to the Directive does not match the IATA Ground Handling Manual list (AHM 810), which makes comparison difficult in practice. Fraport expressed the view that all ground handlers and airlines are very familiar with AHM 810 and the allocation of services into specific categories, but it is not always clear how to allocate one service according to AHM 810 to the same service according to the Annex (and non-European airlines are perceived to be not aware of its existence at all). BIAC found the relation between the Annex and the AHM 810 list of ground handling categories to be unclear: it appears to BIAC that the categories in the Annex should be interpreted strictly, and not in the light of the AHM which may be regularly adapted and which only constitutes a practical working document (contract model) for airlines and handlers.

5.91 In relation to the description of the ground handling categories in the Annex BIAC considered that certain aspects were not always logical (e.g. catering/crew transport and bussing is qualified as ground handling whereas boarding bridges are correctly considered to be part of CI).

5.92 Some stakeholders in France argued that the specific definition of freight and mail handling used in Articles 6 and 7 of the Directive should have been replicated for more clarity in the Annex to the Directive by breaking down services included under categories 2 and 3<sup>41</sup>.

5.93 In the absence of a clearer definition, BAA has assumed that helicopter passengers are not included in the thresholds describing how the Directive applies to which airports at what time.

5.94 Lufthansa expressed the view that those ground handling activities which typically take place within an airline's organisation and facilities should be excluded from the Annex (e.g. category 9).

5.95 BIAC raised the issue of whether it were useful to apply the notion of 'natural or legal' person (instead of the economic notion of 'undertaking') with regard to the granting of ground handling licences.

5.96 In Ireland an issue has arisen that relates to the licensing procedure. The competence of the Commission for Aviation Regulation (CAR) for granting licences is a concern for the airport operator, Aer Rianta. It has raised concerns about the mechanisms and procedures that are being used by the CAR in order to ensure that the criteria set out for handlers are met. So far it has not received proper assurances and transparency in the CAR's mechanisms for licensing.

5.97 We also received some comments from stakeholders about the licensing of vehicles. British Airways in Birmingham mentioned that the airport operator might make it more difficult for the handlers by introducing a new age related policy. It reported that the airport is considering the possibility that all vehicles of an age of more than ten years should leave the airport. Inevitably de-icers, push back vehicles and high loaders would then need to be replaced. According to British Airways this would lead to an estimated cost burden of UKP 2 million over the next two years. At London LHR, all the handlers need to justify their vehicles on the ramp. In this respect United Airlines, a self and third party handler at London LHR, mentioned that in general it would be good if handlers that lose market share were obliged to change their GSE base accordingly.

5.98 From airport operators in Germany we learnt that since 11 September 2001 airports have been faced with the conflict of opening up the market while ensuring all safety and security aspects. The BADV stipulates that a handler must have a liability insurance of €750 million before starting operations. The recent discussion on insurance revealed that some ground handlers have not taken a liability insurance at all. ACI Europe indicated that airports are often accused of preventing other parties, especially independent handlers, from entering the market by asking high levels of insurance. Airports are in fact obliged by national legislation to require that anyone providing activities at the airport will be sufficiently insured. ACI Europe is of the opinion that the main problem for many airport authorities is that they do not have

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<sup>41</sup> BAA assumed there is a spelling mistake in category 5.2 in the Annex: it should read 'aircraft parking' and not 'aircraft packing'.

power in controlling the existence of the insurance. The airport operator in Nuremberg mentioned that the prescribed insurance cover for all handlers is the same, irrespective of the size and type of operations. Fraport argued that any new Directive should solve this. The airport operator in Hamburg is of the opinion that one solution is that the airlines pay for the insurance cover for the handler. The CAR in Ireland stated it would support the introduction of guidelines with regard to insurance and to the level of insurance depending on the activities carried out.

5.99 Fraport commented that in relation to liability insurance of the ground handling suppliers, two issues have to be clearly separated. One issue is the basic liability insurance any supplier should have. The second issue is the special liability insurance in respect of terrorist damages, which insurance may be required in circumstances of a ground handling supplier acting negligently. In Germany, Annex 3 to BADV has clear provisions on the basic liability insurance to be provided but no provision on the specific liability insurance in respect of terrorist damages. This special liability insurance is only addressed in the political discussions in Brussels and elsewhere, since after 11 September 2001, the insurance companies which had previously provided this special liability insurance, cancelled it at short notice. Therefore, many transport ministers in Europe offered a state insurance in that respect in order to bridge the gap until the conclusion of new special liability insurance contracts between airlines, airports and ground handling suppliers and insurance companies. At the time of writing, this state insurance had been extended only until October 2002.

5.100 IACA indicated it had problems with category 8 of the Annex to the Directive that concerns aircraft maintenance. They stated that many airports ask airlines to apply for a licence for self-handling if they wish to perform maintenance on their own aircraft. One IACA member's cargo subsidiary had been asked to apply for a self-handling maintenance licence at several airports (e.g. Toulouse, Lyon, Athens, Lisbon and Edinburgh). If the airline had not applied for and obtained a self-handling maintenance licence, it would not have been able to obtain an airport ID-card for the mechanic, or permission to use a car on the ramp, or lease an office within the airport. In IACA's opinion, the provision of self-handling line maintenance by a carrier's own station mechanic is perhaps included in the Directive by mistake. It has always been generally accepted, according to ICAO recommended practice, that a carrier without having to go through various cumbersome licensing procedures could have his own line station mechanic based at a given airport to serve that carrier's own aircraft.

5.101 ASIG handling would like the issue of fuel supply and 'on-airport' fuelling services to be re-examined. ASIG noted that the final into plane (ITP) service represents a very small proportion of the overall cost (category 7 in the Annex). Therefore in the case of ITP fuelling, the Directive should ensure there is a minimum number of suppliers of fuel at an airport and should not necessarily focus on the number of ITP agents providing the service on the ground. It was further argued that in some cases the Directive is limiting competition in this area because fuel suppliers cannot move the product into the airport or airlines cannot obtain quotations from oil companies on a 'fuel only' supply basis allowing them to use other ITP companies for the service element: supply for airlines is inextricably linked to the service thereby maintaining a lack of transparency of costs for the airlines.

5.102 DHL stated that the national legislation in Greece and the Athens local handling regulation has defined cargo handling inside the warehouse as a restricted activity. It can only be undertaken by one of the three third party handlers or a self handling airline. In DHL's view this is in complete contradiction to the Directive. The issue has been raised with the airport authority, AIA, which responded that it may decide to review the situation if the AUC asked it to so do, but not otherwise. DHL maintained that cargo and mail handling inside the warehouse should not be restricted. AIA pointed out that the restriction is related to the transport of cargo loads from the aircraft to the cargo terminal and not to the warehouses, which are limited by nature to four within the Airport boundaries. In AIA's view any interested party can develop warehouses and provide cargo handling services from off airport boundaries as open access handling service.

5.103 In Italy, an issue of registered capital was mentioned. Article 13 in the Italian legislation requires ground handling providers to have a registered capital greater than 25% of their revenues. Some stakeholders perceived this provision as a barrier to entry into the market. Others believed that it distorted competition since subsidiary companies such as Alitalia Airport do not apply this clause. The AUC at London Gatwick is of the opinion that a business plan of new entrants should form a part of the requirement for successful appointment.

5.104 Independent handlers (e.g. FCC in Brussels) were of the opinion that losing a licence in general leads to social and financial disasters. Therefore in its view, close attention should be given to the conditions/circumstances in which a licence can be lost.

5.105 Aer Rianta indicated that Ireland is one of the few Member States within the EU where there is approval by a regulatory body that is not the airport authority. After the CAR has granted a licence, the handler is then subject to the rules of conduct that are set out by the airport authority.

5.106 In France and Portugal there is a double licensing system: a handler must obtain a licence from both the CAA and the airport operator. In Portugal, any applicant must go first through a certification process with INAC which grants a permit to exercise activity; and secondly, through a licensing process with the airport's managing body to enable access to the market. INAC's certification process is aimed at assessing an applicant's technical capabilities and financial strengths, while the airport's licensing is related to operation, safety and security and other issues. There could be cases in which the INAC has certified a party to undertake handling activities, but the party is then rejected by the airport operator or managing body. In fact, there is a Portuguese self handling carrier (Portugália) that has been certified to undertake service categories 5.1 and 5.7 (i.e. aircraft marshalling and catering handling respectively) but provision of such activities at some Portuguese airports has been denied.

5.107 Some stakeholders complained about the large number of requirements (e.g. documentation, statements, declarations) that any applicant must satisfy before obtaining a handling licence in Greece. In many cases, it is not only the number of documents but also the minimum levels that any applicant must also meet (e.g. insurance coverage, value of *bona-fide* guarantee). These are perceived as major hurdles, particularly for small parties wishing to access activities such as



representation, passenger handling, etc. AIA noted that according to the applicable legal framework, AIA as the managing body of the airport, is responsible for the award of the relevant airport 'rights' (through a tender, selection or an application process), while HCAA is responsible for the 'licensing' of ground handling companies, which following an agreement with AIA, is considered a pre-requisite for the start of operations of the companies at the airport.

5.108 Furthermore, in the case of applications for baggage, cargo and ramp handling, the HCAA must check/audit that applicants comply with minimum manning levels, staffing technical qualifications required, and minimum requirements of ground handling equipment (types and number of units) as outlined in the Basic Regulation. Failing to meet those could translate in serious delays to certification process. In other words, any handler wishing to operate at any Greek airport must have minimum staff hired and all equipment readily available before receiving a licence to operate. Hence, handling agents are concerned that over-sizing their actual staff and equipment creates pressure on themselves to gain significant market share at the beginning of operations to economically justify such investments. Stakeholders (i.e. airlines, handlers) perceive these as a serious entry barrier to handling business.

5.109 In addition to the above, new handlers complain that once all regulatory and minimum requirements are met by applicants, the process of issuing the licence takes a long time to complete as it requires the approval from the Minister of Transport and Communications him/herself. In the meantime, applicants are staffed and fully equipped awaiting for official authorisation to start operating. These delays translate according to newcomers into an additional financial burden on top of over-sizing. For example, Aegean Cronus Airlines recently launched operations into Mykonos Airport, but delays in issuing its self-handling licence meant that the first weeks of operation had to be sub contracted out to Olympic Airways Handling, owned by its air service competitor.

### **Participation of the airport operator in the ground handling market**

5.110 Article 11 of the Directive states that where the number of suppliers of ground handling services is limited in accordance with Article 6 (2) or Article 9, the managing body of the airport may itself provide ground handling services or it may authorise an undertaking to provide ground handling services at the airport in question<sup>42</sup>. According to Article 4, the managing body of an airport must then rigorously separate the accounts of their ground handling activities from the accounts of their other activities.

5.111 In five of the 15 Member States (Germany, Austria, France, Italy and Portugal), the airport operator plays a large role in ground handling (e.g. by providing baggage and/or ramp handling), but all in limited markets. In the other Member States, airport operators play a smaller role in ground handling (e.g. by transporting passengers from the terminal to remote stands or by providing marshalling services). Some airlines consider that marshalling should not be the responsibility of the ground

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<sup>42</sup> If it controls that undertaking directly or indirectly or if the undertaking controls it directly or indirectly (without being subject to the selection procedure).

handlers (i.e. it should be removed from Directive), given the special expertise and safety issues<sup>43</sup>.

5.112 The airport operator in Munich made clear that the original role and the primary aim of the German airport companies was to provide ground handling services. It was further pointed out that under German air law bill, handlers have an obligation to provide ground handling services in cases of threat or emergency (e.g. hijack of aircraft). In these special cases it is the opinion of the airport that in reality the new entrant is unable or unwilling to comply and it is always the airport operator which steps in: the airport operator's involvement in handling is therefore considered to be very important.

5.113 As far as the right of the managing body of the airport to supply handling services at its airport is concerned, ACI Europe noted that it would be difficult to prevent an airport from exercising particular activities on its own premises. Furthermore, in most Member States, there is a legal obligation in the mission of the airport to provide ground handling services, especially when such services are of no interest for handlers because they cannot be supplied on a profitable or even cost recovery basis or in the case of special, classified dangerous, hijacked or even delayed flights. At many smaller regional airports, ACI believes that such an obligation is the sole reason such services are provided at all.

5.114 One airport operator mentioned that the obligation of the airport operator to guarantee the running of operations is a restriction of competition against third party handlers.

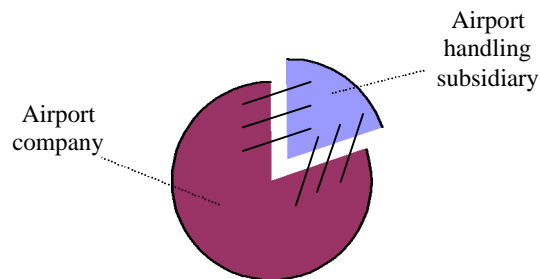
5.115 According to Aviapartner, a disadvantage of the Directive is that it lowered the profitability for both airport operators involved in handling and independent third party handlers, although Lufthansa is of the opinion that airport operators have not earned less from ground handling since the introduction of the Directive<sup>44</sup>.

5.116 Airlines and handlers consider (in limited and open markets) that the situation in which the airport is both the landlord and supplier of handling services can lead to a conflict of interest which distorts competition. For IAHA the most serious concerns for independent handlers are the manifold distortions of competition insofar as airports are both managing body and a handling supplier. In this respect, the interfaces between a handling subsidiary and the airport company were made clear by GlobeGround with help of Figure 5.4: there are too many links to make the airport operator an independent competitor. GlobeGround is of the opinion that a financial clause on separation of business is not sufficient, but an organisational separation is also necessary.

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<sup>43</sup> For example at Birmingham marshalling services are no longer supplied by the handlers, but the airport has taken this back for safety and security reasons.

<sup>44</sup> These comments have not been supported by particular proof.

**Figure 5.4: Airport operator as handler**

Source: GlobeGround

5.117 In Italy problems occurred when airlines changed to a new ramp handler. Some users reported increases in charges for services still performed by the airport handling company. For instance it seems to be common practice for the airport to increase the price of the VIP lounges in such circumstances. If the airport handling company performs ticketing for airlines, there are also cases of increase in ticketing charges. The same can be true for cargo handling services when the airport is still the only provider of such services.

5.118 According to Aviapartner, the airport can influence an airline's decision to stay with the airport as handler in a number of ways, for example by offering marketing support, better allocation of facilities or giving discount on the costs for centralised infrastructure in its (monopoly) role as landlord. Based on verbal statements by airlines, IAHA made it clear that some airport handlers in Germany have combined such products (at least during negotiations): third party handlers cannot match this. Another example of the possible practices of the airport was provided by Lufthansa in Munich: the airport sometimes refuses access badges for sub contractors and thus regulates the market and keeps handling agents from offering a cheaper overall package. Aviapartner stated that a future Directive should deal with the problem of competition between an independent handler and the airport as handler. The structural dominance of airports being at the same time regulator, landlord and operator of the centralised infrastructure on the one hand and ground handler on the other hand does not allow fair competition.

5.119 Table 5.1 serves as a general illustration of the possibilities an airport has to influence the business of the third party handler, based on a number of comments made to us.

**Table 5.1: Potential measures available to airport operators to distort the market**

Entering into contracts with carriers which contain price reduction clauses	Discounts for airlines concerning CI, check-in desks, landing fees, terminal charges in return for using the airport handler and abuse of marketing support
Entering into long term contracts with no escape clause or financial conditions discouraging carriers to cancel the contract	Making the interface not the baggage sortation/delivery area, but the terminal building (creating a reduction in utilisation of labour)
Below cost selling amounting to predatory pricing	Delays in licensing of equipment and in providing accommodation
Back dating discounts to retain large customers	Unfair stand allocation
Continuing contracts that contain discounts on	Threats of transfer of staff irrespective of validity of

items which have become CI	claims
Using revenue from CI to cross-subsidise handling activities	Lack of regular air-bridge access for customers of third party handlers

5.120 According to IAHA, the above practises are not restricted to a single airport. It recommends that the European Commission investigate on its own initiative these practices which in its view cause unacceptable distortions of competition.

5.121 Checkpoint B felt it a general problem that the national carrier Lufthansa and its alliance partners were strongly linked to the airports in Germany. This was illustrated by a case concerning a customer, Augsburg Airways, which stopped operating its own flight (which was code-shared with Lufthansa), and started flying a under Lufthansa (wet lease) flight number: when this happened, the airline was automatically lost as customer and instead used the airport company's handling operation, even though the aircraft, destinations, and slots remained the same. Another situation that Checkpoint B mentioned was a case in which a potential customer was lost because it was afraid to lose benefits on centralised infrastructure and aeronautical charges.

5.122 In Portugal airport users and handling agents perceive the link between the airport and its involvement in handling as a potential conflict of interest, although ANA considers that its joint venture handling subsidiary (Portway Handling de Portugal S.A.) is a totally independent and separate entity from the airport organisation. While no major complaint or issue was found (all parties consulted agreed that ANA made best efforts to accommodate all user needs), there were some instances when some sort of 'favouritism' was felt. For example, when a new carrier or ad-hoc operator wishes to operate to a Portuguese airport, the airport (managed by ANA) recommends Portway as the only ground handling agent available. Another example involves handling of passengers with restricted mobility (i.e. RMP). Before handling liberalisation, air ambulance lifts were operated by the airport and not any specific handling agent. As soon as Portway started trading, ANA transferred these vehicles to Portway and now any user with special RMP handling needs has to request them from Portway directly.

5.123 When Servisair was selected in Stuttgart as the new supplier of third party handling it experienced major difficulties from the airport at the start of operations in November 1999, which eventually led to the withdrawal from the market (March 2001)<sup>45</sup>. According to Servisair, the airport operator in Stuttgart (FSG) successfully prevented it from gaining any substantial market share. FSG indicated that internal difficulties at Servisair played an important role in Servisair's difficulties, but as a result of Servisair leaving the market, it had significant problems in running the operation, especially in relation to a shortage of staff to handle Servisair former customers. The airport company also mentioned that it was very surprised about Servisair's announcement in January 2001 to cancel its Stuttgart operation, in view of its market share. Because of Servisair's withdrawal, a second tender was organised immediately. Although there was no Servisair application for a new licence, after

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<sup>45</sup> Servisair has provided SH&E with a large file on this case.

Losch Airport Service GmbH won the second tender (at the end of May 2002) Servisair started legal action to be allowed to re-start operations.

5.124 Concerns have been raised by stakeholders about possible cross-subsidisation of handling activities by airports. They consider that the requirement on airport operators to separate their ground handling business from other activities is weak<sup>46</sup>. However, it was also noted that proof of unfair practices was difficult to obtain. IAHA stated that experience showed that the separation of accounts is an insufficient safeguard against cross-subsidisation by airports. For instance, users in Italy are not confident with the separation of accounts and question the absence of cross financing. Some also question the fact that airport handling organisations are actually paying to the parent airport operator the same in access fees and CI charges as the other handlers. In this respect ADR pointed out use of common facilities and CI are levied by ADR to ADRH at the same charges as to other handlers. It was further remarked by ADR that ADRH pays regularly, while some handlers don't pay for the use of common facilities and also don't agree with CI fees.

5.125 In relation to the separation of accounts, ACI Europe stated that airports are usually subject to effective control by their national public authorities (usually the Ministry of Finance, concerning both the separation of accounts and the absence of cross subsidisation), whereas the accounts of other handlers are in most cases scrutinised by their own private auditors. Furthermore, ACI Europe did not notice any application of such a legal obligation on separation of accounts applied to other handlers.

5.126 The airport operators that we met pointed out that there is no cross-subsidisation of the ground handling department out of revenues from the aeronautical charges. In relation to this, Swissport at London LHR argued that it should be strictly checked if airlines performing self-handling are cross-subsiding. Alitalia mentioned that ENAC has not clarified yet which rules must be followed for the separation of accounts, as the Italian law does not provide for this. BMI expressed the view that there should be greater clarity in ownership and control for all airports (the example of Fraport's joint venture partnership with Acciona in Ineuropa in Spain was mentioned).

5.127 Lufthansa is of the opinion that it should be clear in the Directive that the separation of accounts should not be applicable to self handling by airlines, but should hold only for third party handling, because it views that unfair influence on competition is conceivable only in the latter case.

5.128 ERA is of the opinion that where an airport operator is involved in handling through a fully or partially owned subsidiary, any support service it continues to provide to its subsidiary must be provided on a fully transparent basis. Furthermore, the services it renders must be available to other third party handlers on no less competitive terms.

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<sup>46</sup> A similar concern exists for airlines acting as third party handlers.

5.129 Equally, ETF and work councils stated that independent handlers have the ability to cross-subsidise between different countries, thus creating a competitive disadvantage for the airport as handler. ETF considered it a structural discrimination that independent handlers can make pan-European and nation-wide deals with airlines and alliances, while airports cannot do this.

5.130 The CAR in Ireland perceived it as unfair that according to the Directive an independent examiner should only check the absence of financial flows between the activity of the managing body as airport authority and its ground handling activity and not of the airport user and the supplier of ground handling services (though they need to separate the accounts as well). In Ireland, the legislation does not refer to financial flows at all, but implies an obligation for the managing body of the airport, an airport user or a supplier of ground handling services to submit audited annual accounts to the CAR.

5.131 Airlines offering third party handling such as Iberia, Olympic Airways and TAP claim that handling activities are treated as separate businesses from an organisational and accounting point of view. However, they have not created separate handling subsidiaries with total organisational, accounting and operational independence. Moreover, even though they have separate accounting (cost centre basis), their books are not audited nor do they publish separate financial statements, which might be interpreted as a breach of the Directive's provisions. Some stakeholders have complained that these carriers particularly benefit from self-handling activities at their home airports. Most of their operational requirements and costs could be fully paid by self-handling activities (i.e. labour, equipment depreciation/lease, maintenance, rentals, etc) and therefore they can price third party activities on a marginal cost basis. This represents a real competitive disadvantage for most independent handlers and potentially a barrier to market entry.

5.132 Menzies explained that an airport as handler is benefiting from economies of scale. It is easier for it to absorb offers of low prices as they have the equipment and employees available. A small independent handler cannot sufficiently compete in this respect by offering lower and lower prices, and thus airlines tend to stay with the airport for handling services. IAHA argued that this may be normal commercial conduct in genuine competitive surroundings, but this is not a reasonable step on the part of a dominant handler seeking to protect its interests.

5.133 ACI Europe considered that the identity of the supplier (airport or independent handler) was not a relevant factor but that the size of the handling agent was. Large independent operators such as GlobeGround, Aviapartner or Menzies could take advantage at the global level of a great number of employees and equipment which they are able to transfer from one airport to another if requested by the market and hence can benefit from economies of scale. Furthermore, airlines are more and more interested in global offers with a wide range of services at different airports, which allow them to guarantee a similar level of service to their clients and the clients of their partners at EU or worldwide level (such a situation is also much easier for them to manage). Only airlines and large independent handlers are in a situation to provide such a service. With the exception of one or two airports, the latter are usually confined to their own locations and are not able to compete on such a scale. However, several handlers appear to prefer (for financial reasons) to have a shortage of equipment at certain airports, regularly obliging the airport operator to lend part of

its own material to its competitor in order to ensure the good operation of the whole airport system.

5.134 Munich Airport made clear that it did not agree with the opinion of the European Commission that long term contracts concluded by airport operators with their customers were illegal (the European Commission decided on 14 January 1998 that Fraport's long term contracts infringed Community law). Munich Airport considered this opinion to be contradictory to the provision of the Directive which allows for awarding seven year licences to the new entrants: this means that the new entrant can calculate his fees on a seven year long term contract basis which would give him a competitive advantage over the airport operator if the latter was really denied that same opportunity by law. Nevertheless, Munich Airport follows the same policy as Fraport does, i.e. it concludes handling contracts longer than one year (though two to four years in its view is not really long term) and calculates the price offers on such a basis. At the same time it gives customers full freedom of termination with two months notice, without penalty.

5.135 ADV argued that where airlines have wanted to switch to another provider and in so doing wanted to end long term handling contracts with the airports, they have been able to do so without having to adhere to the agreed periods. Fraport argued that with airlines changing to short term contracts (e.g. sixty day termination clause), this will have consequences for permanent personnel: handlers will need to make their employee force flexible as well.

5.136 In relation to public procurement rules, airport operators are subject to the rules of Council Directive No. 93/38 of 14 June 1993, but airlines and service providers are not. The airport operator at Munich pointed out that purchases of ground handling equipment usually exceed the thresholds laid down in this Directive, so that tendering becomes applicable<sup>47</sup>. But it takes time to publish the tender, to evaluate the bids and it costs money. According to the airport the original justification of this was the fact the airports were state-owned and monopolistic. Since liberalisation on the one hand and privatisation on the other hand are progressing, it considered that the former justification has become obsolete, but the rules remain and create a competitive disadvantage for airports in relation to their competitors. Therefore, Munich Airport argued that either airports should be freed from the EU public procurement rules or those rules should also be imposed on their competitors (i.e. on airlines and service providers).

5.137 IAHA mentioned that following the recent SAS accident in Milan, the regulation of airports in Italy is to be changed by allocating full responsibility to the airport authorities. So far, a delegate of ENAC (Italian CAA) has been part of the airport management. It has been experienced that the presence of this delegate has sometimes helped independent handlers to overcome obstacles raised by airports (themselves handlers) for the proper provision of handling services. IAHA expressed the view that if full control in the future were to lie with the airports, it fears that independent handlers would be faced with the same anti-competitive practices in Italy as in Germany.

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<sup>47</sup> According to paragraph 1 Lit. A.

5.138 BAA noted that there is no provision in the Directive for an airport managing body to respond to a request from its airline customers and arrange a transparent contract for the provision of a particular handling service, where the airport collects the charges from airlines and pays the sub contractor.

5.139 In relation to the involvement of airport operators in ground handling at other airports, BMi expressed the view that “there is some active management involvement” and “there is a relationship between Acciona and Ineuropa.” Acciona was not able to implement its proposal for handling BMi at Frankfurt. BMi has subsequently ceased operating to Frankfurt (we believe for other reasons), so that the effects of this specific example of possible market distortion have disappeared.

### **Airport Users’ Committee**

5.140 Under Article 5 of the Directive, Member States have been required to ensure that a committee of representatives of airport users is set up. All airport users have the right to be on this Airport Users’ Committee (AUC), or, if they so wish, to be represented on it by an organisation appointed to that effect.

5.141 At most airports, the airport operator has stimulated setting up the AUC. Among the stakeholders it is viewed as a good platform, but it has become clear that AUCs want more influence (or power) on decisions made by the authorities or airport managing bodies, or at least to have more involved in issues related to ground handling. At some airports, representatives of the AUC have expressed the view that they are not fully recognised by the airport operator as a discussion partner. An example of this is the fact that in selection processes the opinion and preference of the AUC has not influenced the decision for a new entrant at all in some cases, while it is viewed that it is the users that should benefit from newcomers.

5.142 Users argued that it should become clear from the Directive on which cases the AUC is to be consulted by the airport operator. On the other hand airport operators made it clear that the AUC has a very strong influence on decisions taken by the airport operator related to ground handling. One of the stakeholders mentioned the AUC should be supervised by an independent institution that is not related to the users or the airport.

5.143 ACI Europe mentioned that some Member States do not have precise and objective rules in the national legislation to guarantee that the different positions within the AUC will be reflected. To enable the body responsible for selecting handlers to take into account the true situation, ACI Europe considered that dissenting positions in the AUC should also be mentioned in the minutes of the meeting and not just the result of the vote, which would normally reflect most strongly the main carrier’s position. Furthermore, it argued that any airline supplying the same handling activities at a designated airport should not be allowed to vote when choosing its competitors at that airport.

5.144 IACA was of the opinion that there needs to be clarity in defining ‘consultation’ and determining the ‘correct’ composition of AUCs and how decisions are made (“currently fraught with difficulty”). Alitalia also supported having clear rules on the functioning of the AUC.



5.145 It is the general view of AUCs that the airport should not interfere in the relationship between handler and airline when it comes to quality standards: this should be left to the market. The AUC at Schiphol expressed the view that the main role of the airport is to act as landlord, which means focusing on security and safety and a proper functioning of the airport system.

5.146 At some airports the functions of the AUC have been delegated to the Airline Operators' Committee (AOC), because it was viewed there was no special need for an additional committee, especially if airlines are the only members as is common in the AOC. For example, the airport operator of Shannon indicated that at smaller airports it would be more practical to incorporate the functions of the AUC in the AOC. It was also its experience that there is some confusion about the term 'airport user' in that many believe it to mean all agencies operating at the airport.

5.147 In general it is only airlines that are represented and have voting rights in the AUC. At some airports ground handlers are represented on the AUC as well, which in some cases includes voting rights (e.g. Turin). The same applies to airport operators (e.g. in Gothenburg the airport operator holds a vote).

5.148 Where voting is concerned, a number of airlines complained that AUCs have been biased in the tender consultation process towards the candidate favoured by the home carrier, as voting is often based on traffic units or MTOW. This situation occurs for instance in France, Austria and Germany<sup>48</sup>. Despite the fact that the home carriers have no ability or intention of changing their supplier of ground handling services, either because they self handle or in view of the size of their operations. AEA was of the opinion that the large carriers dominate the AUCs. Airlines in general favour the IATA voting process, which is common practice in AOCs: one airline, one vote.

5.149 At some Greek and Spanish airports, small airlines considered that their voices and weight on decision/approval process was compromised if the largest airline (home-base carrier) was also a ground handler. These parties agreed that this created a serious conflict of interest and undermined the effectiveness of the AUC as a forum for discussion and consultation.

5.150 The chairman of the AUC in Dublin mentioned that discussions on the voting mechanism have never been solved (and in fact, voting has never taken place), therefore a recommendation in the Directive regarding voting mechanisms for the AUC would be appreciated. Aer Rianta considered that the term 'airport user' was very ambiguous and that it seemed to be subject to considerable misinterpretation.

5.151 In Portugal airlines complained about the late constitution of the AUCs and the lack of consultation by the airport so far. In Faro, only air carriers with their own representation are allowed on the AUC: agents cannot represent carriers. This means that only two airlines (BA/GB Airways and TP) are members, as all other carriers (mainly charter airlines) at Faro do not have their own staff at the airport. Charter

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<sup>48</sup> In Germany Lufthansa's vote in the AUC is capped at 49%, but Air France in France represents a majority in the AUC when it comes to voting.

carriers would like to see their representative agents being part of AUC, but this is not allowed.

5.152 Some handlers also expressed the view that they saw benefits from a committee representing handlers only. In Amsterdam, such a committee has been set up. It is this committee that helped smaller handlers to be listened to more attentively by the Schiphol Group. Some independent handlers mentioned that they wished to be represented on the AUC as well (e.g. Swissport and Aviapartner in Lyon). However, at many airports, airlines can be represented by their handlers in the AUC.

5.153 Despite initiatives from Aena for Spanish airport users to organise themselves and establish local AUCs, only Madrid airport has an AUC which is legally and formally recognised by DGAC. Palma de Mallorca and Tenerife airports have formed their respective committees but their constitution laws have not been approved by DGAC as yet, although this is expected soon. The process by which airport users organise themselves into local AUCs is at its early stages at other Spanish airports. Aena mentioned that this is one of the reasons why consultation is difficult

5.154 The degree of consultation between the airport's managing body and its AUC varies significantly. While airports such as Athens International "Eleftherios Venizelos" regularly consult their AUC on matters such as price, quality standards, centralised infrastructure fees, handler's selection and criteria, etc., others have had little to almost no interaction with the local AUC. Airport users in Spain have complained about limited consultation between Aena and AUCs. Moreover, all parties contacted criticised Aena's lack of consultation before introducing new centralised infrastructure fees in January 2002 (better known as *H Tariff*).

5.155 During the consultation process with airport users, we identified some mis-definitions in terms of the AUC's scope. Some members associated AUC's handling duties with other non-handling, operational issues, while others associated similar activities to the AOC. Probably the single most unusual case was at Madrid. Madrid's AUC is lobbying for a wider '*Association of AUCs*' which would not only be able to counter balance arguments from Aena since the organisation at all Spanish airports is very similar, but also would have a larger scope beyond handling issues only.

## Degree of competition

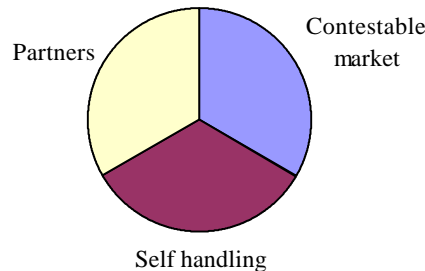
5.156 The size of the market available on the ramp (which is where services may be limited) and the degree of competition is a concern of the independent ground handlers. In broad terms this handling market at an airport may be divided into three parts (schematically shown in Figure 5.5): a self-handling part, a part consisting of airlines provide handling services to their partners and the rest of the market (the contestable market)<sup>49</sup>. Rarely are the segments of equal or even similar size as in the

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<sup>49</sup> The available market for independent handlers can be viewed as the total market excluding the self-handling part and, at those airports where the major based airline(s) is allowed to handle third parties, the operations of that airline's franchisees, alliance and code-sharing partners.

figure, and the contestable market is often less than 20% (in terms of number of passengers) of the total.

**Figure 5.5: Handling market**



5.157 The definition of self-handling is relevant here (Article 2). The Directive allows airlines to undertake self-handling, and defines this to be a situation in which an airport user directly provides for himself one or more categories of ground handling services and concludes no contract of any description with a third party for the provision of such services<sup>50</sup>. However, this definition does not permit airlines to undertake handling for alliance partners, to handle wet-lease operations, or to undertake reciprocal handling (that is at an airline's base to handle another airline which handles the first airline at its base)<sup>51</sup>.

5.158 Airlines and independent handlers have opposing views on whether the definition should be widened to include franchise operations, alliance partners and wet-lease operations. The airlines see important benefits for them to be able to gain from a broader definition of self-handling to include handling for alliance partners. KLM is of the opinion that an airline often deliberately chooses to let partners undertake certain activities for them. An example of this is the reciprocal handling of KLM and Northwest at their respective hubs. KLM considers its handling of Northwest at Schiphol to be self handling. In the same way, other alliance partners often decide to leave the handling to the largest partner at the hub as part of the network strategy. With worldwide alliances moving forward, KLM stated that the definition of self-handling should be widened, with alliance and network partners being part of this.

5.159 GlobeGround indicated that it is possible that this problem may diminish, with airlines focusing on their core business and selling-off ground handling activities<sup>52</sup>. A

<sup>50</sup> For the purposes of this definition, among themselves airport users shall not be deemed to be third parties where: one holds a majority holding in the other or a single body has a majority holding in each.

<sup>51</sup> This is a long established custom for airlines, and although less common amongst European airlines, it is still a prevalent arrangement with long haul airlines, especially those from developing countries.

<sup>52</sup> For example BMI has sold elements of its handling business in March 2001 to Aviance

similar development by airport companies would also remove many of the issues associated with their involvement in ground handling.

5.160 One independent handler, however, advocated a more liberal definition of self-handling to include what it termed ‘virtual handling’. In this definition, an airline which was allowed to self-handle at an airport would then be allowed to out-source this activity to an independent handler of its choice. This independent handler would then become established at a new airport and, regulation permitting, could provide another handling alternative for other airlines (although in such cases acting as a third party supplier rather than as its virtual self-handler)<sup>53</sup>.

5.161 According to ERA the definition of self handling causes a problem in an other area as well, making the definition artificially restrictive and too general in application. It relates to the fact that airport users shall not be deemed to be third parties where one holds a majority holding in the other or a single body has a majority holding in each<sup>54</sup>. The definition restricts the ability of some parties to offer ground handling services at an airport simply because they are majority owned by another airport user.

5.162 Fraport did not support a wider definition of self handling. In its view, this would support airline handling monopolies or at least dominant positions and would oust both airports and independent handling agents from the market. The Schiphol Group argued that the need for self handling is a good indicator of the competitiveness of the handling market at airports: at Schiphol there had been no applications for self-handling after the Directive came into force, and the number of self handling airlines even reduced. It was Schiphol’s view that this is the result of the additional choice for third party handlers (when airlines do not have sufficient choice they will start self handling).

5.163 Independent handlers were of the opinion that the co-operation between airlines limits the contestable market. For example Finnair, one of the two providers of ramp services in Helsinki, has an extensive network of code share agreements. GlobeGround (and users) considered that this limited competition severely. With help of the code shares agreements, Finnair has locked in many airlines as customers for its handling business. As a result of this GlobeGround lost many customers. Aviapartner decided to leave the Copenhagen and Stockholm markets, because in its view these were captive markets of SAS (strengthened by its membership of the Star Alliance). Furthermore, IAHA noted that SAS was in a position to charge different handling prices: higher for loyal airlines (Star Alliance members) and lower for other carriers (underbidding prices of independents). Aviapartner has put its joint venture operation in Scandinavia, Novia, into liquidation. Swissport at London LHR also mentioned that the contestable market is limited because of tight marketing deals (code shares) and reciprocal handling arrangements. GlobeGround in France

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<sup>53</sup> While *prima facie* attractive, such an approach might raise issues about avoiding the airport operator-driven tender selection process, and might enable the virtual handler to ‘cherry pick’ new customers. However, competitive pressures could be invigorated.

<sup>54</sup> PGA Portugal Airlines finds the definition regarding ‘majority holding’ unclear: ‘*is this de facto or de jure?*’, ‘*majority holding of the shared capital?*’.

mentioned that it was difficult or impossible to acquire customers that have code-shares with the national carrier.

5.164 The contestable market for third party handlers is further limited by the fact that large airlines are often unable to change to new independent handlers, because the scale of their operation is too large to be taken over. For example Lufthansa indicated that it is too big to be handled by Acciona Airport Services in Frankfurt, though at airports where its operations were of a smaller scale it could change handler.

5.165 The relatively smallness of the truly contestable market at some airports has an impact on the finances of ground handling companies. Most independent third party handlers are struggling to make a profit. The independent handlers are very much opposed to any broadening of the definition of self-handling, as this would reduce further the available market for their services. At several airports, that market is already so small that it may be unviable even for a single independent handler.

5.166 It is generally viewed by handlers that the impact of airline alliances is that the alliance has more purchasing power, although airlines mentioned that they are able to choose a handler individually, despite being part of alliance. Fraport made it clear that one of the consequences of airline alliances is that airlines tend to negotiate with ground handlers as a group rather than as individual airlines. For example, in Frankfurt almost the whole One World Group changed to Acciona Airport Services. According to VAS (the new entrant in Vienna) the Austrian Airlines Group combined forces to negotiate handling prices. British Airways in Birmingham mentioned that its partners for which it currently provided handling services were free to move handler according to contract. Servisair in Manchester and BMi also argued that airlines were free to choose a handler, despite being part of an alliance. On the other hand, IAHA argued that alliance members were sometimes not even allowed by the alliance contract to ask for price quotations from handlers.

5.167 In relation to the above, ACI Europe considered it important to guarantee to all carriers (even the smaller ones) a real right to freely select their suppliers. ACI Europe was of the opinion that not only was the choice of suppliers generally imposed on the smaller partners of an alliance by the main or based carrier, but also carriers that were not part of an alliance did not have real choice at some airports because there was no more place which was economically viable for a second supplier.

5.168 ERA was of the opinion that there were examples of airports that had unreasonably applied the restriction to limit the number of self handlers to two. It expressed the view that the remaining users had no option but to choose a third party handler: an unfair competitive disadvantage<sup>55</sup>. It may happen that this third party handler is a competitor, raising the question of commercial confidentiality. For example in Brussels, Sabena as a supplier of ground handling services was not a commercial option for BMi. Aviapartner, as the only other handler, would be very aware of this limitation and thus could increase prices.

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<sup>55</sup> E.g. in Brussels VLM are unable to self-handle due to restriction to the number of self handlers to two.

5.169 A similar situation exists in Spain: a number of airlines have indicated to us that the appointment of Iberia as a third party handler at all Spanish airports limits choice for these airlines to the only other handler available. The situation is even worse when the second supplier is also associated to another airline (i.e. case of Eurohandling which has a minority investment from Air Europa). Self-handling is the only option left in such cases according to some carriers. All domestic scheduled carriers exercise self-handling rights at most Spanish airports even though their volume of operations (air movements) may not economically justify such move. For example, Spanair self-handles at Fuerteventura airport (Canary Islands) despite the fact that it operates one scheduled flight per day plus a number of charter flights per week (4.2% of traffic share). The two third party suppliers at the airport are owned (fully or partly) by two of its largest competitors, Iberia and Air Europa.

5.170 Furthermore, some users held strong views that restricting services to two suppliers might provide the opportunity for some form of anti-competitive practices (e.g. price collusion, agreement of market share distribution, etc). According to some sources, the alternative would be strong regulation and supervision from an airport's managing body to guarantee users that such practices would not take place, but this does not happen in reality.

5.171 ERA has requested (the actual word used was 'pleads') that Article 7 should explain the compelling circumstances under which a Member State may restrict the number of self handlers and establish timescales for the lifting of such restrictions.

5.172 ERA saw another issue in the application of VAT charges (additional to the handling charge) when airlines make use of third party handlers. Self handlers would not pay VAT, which it cited as another example of an unfair competitive situation.

5.173 There has been consolidation among handlers (e.g. GlobeGround and Servisair and the Aviance group). British Airways mentioned that the value of licences has resulted in further consolidation in the market place and the choice for airlines is therefore limited and is distorted by acquisitions. The limited number of licences has made it difficult for even global suppliers to develop a rational and coherent regional presence. In this respect, Manchester Airport noted that although the number of handlers has increased, the number of alliances and sub contract arrangements has also increased and this has actually reduced the real level of competition.

5.174 The larger handlers cover a wider network of airports than small handlers and therefore are able to negotiate handling packages to carriers or offer volume discount schemes. Independent handlers in Greece and Spain complain that Olympic Airways and Iberia take advantage of their domestic networks when negotiating handling contracts particularly to charter carriers wishing to operate to several airports. We were advised that both handlers offer large volume discount schemes (20% to 30%) to carriers using their services on an exclusive basis at all destinations. When a carrier wishes to sub contract services from a different handler, they are penalised by removing the discount. For example, airline representatives consulted at Heraklion Airport confirmed that large charter airlines have no option other than using Olympic Airways if they wished to preserve the incentive pricing (discount) offered by Olympic when flying to other Greek resort airports. So far, only Condor has moved from Olympic to Swissport Sud because the number of flights operated into other

islands is small and therefore moving handlers would not have such a negative impact on prices. To a lesser extent, similar positions were heard in Spain.

5.175 Stakeholders have opposing views of the impact on the ground handling market of airports working together. Fraport is of the opinion that its co-operation with Schiphol has no impact at all on ground handling at either airport. According to Manchester Airport, airport alliances will only have an impact if one of the airport handling departments starts handling operations at the other's airport (e.g. Fraport handling at AMS). IAHA mentioned that the intention of five German airports to work together for the sale of airside handling services will allow them to offer package deals and simplify customer servicing and contract administration, which may cause the few competitors to the airports' own handling operations to be eliminated.

5.176 The integrated cargo carriers also consider that their efficiencies are greatly hampered by the inability to handle what they consider to be their own operations at their overnight hubs. This is best described by the example of DHL. Each weekday night, DHL has a fleet of aircraft operating into its hubs, exchanging express cargo, and then returning to their bases. Air services are provided by a mix of own, wet or dry leased and chartered aircraft. Hub transfers are fully integrated with the air operations for reasons of time, safety, communication systems as well as operational standards and procedures. DHL stated that the handling activities performed by the hub company are part of the integrated transportation chain and are not activities that can be separated from the air and hub operations (in fact, they do not form part of a ground handling market open to third parties). The definition of self handling means that the hub company that provides handling activities is technically a third party handler vis-à-vis the airlines feeding the hub, and therefore at restricted airports requires authority to operate which must be obtained after a tender competition.

5.177 According to DHL no third party handler could or would be willing to be involved in the integrated chain of the express carriers and in the cases where the hub companies are not able to obtain a licence as a third party handler, by reason of the limitation of the number of third party handlers present on the airport, the integrators are forced to opt for a self handling licence<sup>56</sup>. However, DHL believes the transfer of hundreds of personnel to airline companies creates not only serious management disruption and complexity, but causes a substantial financial burden arising from different social conditions imposed by different collective labour agreements. Moreover, the self-handling option would not solve the problem of the handling of cargo of third party airlines feeding the hubs. DHL considered that by trying to avoid a problem (circumvention of the tender process), the Directive causes considerable havoc in a market segment where no problem of access or competition issues existed. DHL expressed the view that since the handling operations take place at night on a clearly defined separate area of the airport, there is no issue of congestion or safety on the ramp.

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<sup>56</sup> In open markets this is no problem, for example in Dublin DHL has a self and a third party handling licence.

5.178 ACI Europe noted that the number of handlers often differs for each terminal or between passenger and cargo terminals, in recognition of the possibilities for each part of the airport. Furthermore ACI argued that the express carrier's objective of further opening up the market is mainly to allow extra Community carriers to continue with historical rights and exercise self-handling activities without complying with the general objectives and non discriminatory criteria relating to the selection of self handlers when the number is limited by the national authorities. Therefore, ACI stated that any special right granted to express carriers should be granted according to each local possibility in the respect of the rules.

5.179 According to BIAC, the Directive has a very strict definition of self handling since Article 2(f) only covers the provision of such services by an airport user to itself or among airport users (the user being in itself defined strictly as a 'natural or legal' person). BAIC believed it was necessary to apply a more realistic approach and/or introduce a more economic notion of 'undertaking' (based e.g. on the notion of control) in the context of self handling.

5.180 Air France indicated that in some French provinces existing handlers decided to cease operations, because the competition was too tough.

### **Allocation of facilities**

5.181 Article 16.2 in the Directive points out that the space available for ground handling at an airport must be divided among the various suppliers of ground handling services and self handling airport users, to allow fair competition.

5.182 In relation to the allocation of facilities, a distinction should be made between commercially important facilities (e.g. check-in desks, stands and gates) and support facilities (back offices, GSE parking areas, crew rooms etc.), which affect efficiency. It was considered that in most cases airport operators were doing their best to allocate newcomers. The principle of fair allocation is good, but has proven to be difficult in practise. Problems of space are a general concern. For example, Fraport had to close aircraft stands to accommodate Acciona Airport Services. Fraport was of the opinion that the introduction of larger aircraft types would result in additional loss of space and capacity. Given the limited airport capacity, it recommended that consideration be given to limiting additional access to landside operations for passenger handling.

5.183 Most Greek airports, excluding the new Athens International Airport "Eleftherios Venizelos", have experienced serious infrastructure limitations particularly during the busy summer season. This has translated into poor handling standards and longer turnaround times and hence a large number of complaints from passengers and airlines.

5.184 Practical difficulties were encountered in terminating/re-negotiating existing contracts (e.g. cargo sheds). The Schiphol Group stated that it had problems in the fair allocation of dedicated facilities because of a Dutch law regarding the protection of tenants: handlers need not give up their premises even if their handling volumes decline. Aviapartner had to find its own space at the airport, as the airport informed Aviapartner that because of the strict Dutch law for renters, it could not break existing contracts. This created a shadow market for space in Amsterdam. The Schiphol Group mentioned that handlers even rent to each in order to avoid competition. In France,



especially ADP at Paris CDG, space allocation remains a difficult exercise for airport operators given the number of handlers. This is further magnified by frequent transfers of activity between handlers that should require a constant adjustment of allocated spaces in proportion to the level of activity

5.185 The problems encountered to fit in a new entrant are also experienced by BAA at London LHR: a situation in which national law is in conflict with European law. Allocation of the facilities can become very difficult in practice, as the airport operator often has (long term) contracts with the incumbent parties for the facilities or where in some cases part of the facilities are owned by a certain party. Furthermore BAA mentioned that full liberalisation creates space and capacity problems, which are detrimental to the handling operation and have increased costs, while airlines do not benefit from more and more handlers. However, at other airports it became clear that handlers have no problems giving up space, as excess space is an extra cost burden. GlobeGround in France supported stricter rules on redistribution of areas between handlers.

5.186 Few parties informed us that they had deliberately been allocated poor facilities. An example was given by VAS handling in Vienna where it considered that ATC deliberately allocated stands to VAS's customers that were not close to each other, thus making handling difficult/inefficient. Servisair in Dublin considered that it had experienced unfair allocation of stands: it happens frequently that its customers' large aircraft are allocated remote stands, while at the same time small aircraft are on contact stands. Aer Rianta pointed out that stand allocation procedures at Dublin airport are developed on a transparent and consultative basis (the rules that drive the automated stand allocation tool are made available to the carriers and are constantly reviewed in accordance with business needs).

5.187 Another issue related to allocation of facilities in Dublin exists. The airport operator had allocated a cargo warehouse facility to Reed Aviation, while Menzies also had expressed its interest: the outcome is that the allocation of the facility is to be re-tendered.

5.188 Although there were no complains of unfair allocation/distribution of infrastructure at Mediterranean airports in general, some stakeholders believe that incumbent handlers did benefit from their past monopoly position (Olympic Airways, Iberia and TAP in Greece, Spain and Portugal respectively). Normally their offices would be close to or within the terminal building and the space allocated for parking of ground handling equipment only a short drive from the apron. New handling agents did not enjoy such privileges particularly at infrastructure constrained airports. In many cases the incumbents were not required to give up space (i.e. offices, apron space, changing rooms, etc) and airports had to accommodate newcomer's needs as effectively as possible elsewhere. However, lack of appropriate spaces or buildings, left some handling newcomers with no alternative than to build up dedicated facilities (i.e. offices, changing rooms, workshops, etc). Also, the equipment parking areas allocated to newcomers were in most cases at a longer driving distance than their peers, the incumbents. Although in most cases, airports have compensated new handlers by offering lower rentals comparable to other airport tenants to recover investment in the long-term, they believe that such alternatives have created a cost disadvantage by adding extra costs.

5.189 Some parties are of the opinion that limited space at an airport can lead an airport into abusing its monopoly position by severely increasing rents. High rents are of a great concern to handlers and airlines.

5.190 Servisair in Manchester expressed the view that one party must take control of the management of a turnaround as there are so many different parties involved and parked around the aircraft. The Health and Safety Executive (HSE) in the UK had recognised the dangers associated with a number of individual service providers in attendance (i.e. handling agent, caterers, fuellers) without coordination of the various activities. Manchester Airport is concerned about safety, as accidents have increased at the airport, in one case leading to a fatal injury on the ramp. Another airport where concerns have been raised about safety on the ramp is the open market of Lyon, where there have been several serious accidents, one fatal.

5.191 The allocation of space is not just a problem of the handler and the airport operator, but it is also an issue for an airline. It is the view of a number of airlines that the allocation of facilities to handlers also influences their commercial choice for a handler. Therefore airlines would like to see more transparency from airport operators on the basis of allocation of space and facilities.

5.192 Given the lack of space a number of stakeholders mentioned that pooling of equipment (GSE) could bring a solution to this problem.

5.193 BAA mentioned that the wording of Article 16 should be amended to recognise the practical and legal difficulties faced by airport managing bodies should they be faced with the need to re-allocate existing airport facilities. As currently written, Article 16 would appear to imply that the airport managing body is required to break property agreements for existing facilities in order to re-allocate them. In such cases BAA argued, the airport managing body might face a penalty for breaking these property agreements and it would be sensible if this could be recouped in some way, perhaps through the ground handling licence charge.

5.194 According to ASIG in London Stansted and at other airports where oil companies own the facilities, there is difficulty for other fuel suppliers to gain access to the final storage facility.

## **Access fee**

5.195 Article 16 of the Directive allows airport operators to charge an access fee to ground handlers for the right to operate at their airport. This is in addition to any charges for cost-related services such as issuing airside passes, or for centralised infrastructure.

5.196 Airports in the Member States have a different history in relation to access fees. This has also influenced the current access policy of the different airports: some airports do not charge access fees to handlers and some do.

5.197 The view of the airport operators is that an access fee gives ground handlers an ability to exploit an opportunity created at their (the airport's) property to undertake a profitable business. An analogy is made with retailing and catering companies, which pay an access fee. The response to this was put by IAHA, which argued that handlers

have no alternative business opportunity than at the airport, while retailing companies do have opportunities outside the airport.

5.198 ADV would like to see a revised Directive reinforcing an airport's right to charge access fees: for market access, and for the maintenance and use of facilities. ADV considered that when the Directive was passed in its second reading the Commission clearly stated that charges should create sufficient profit for the airports, especially with the purpose of contributing to their self-financing.

5.199 ACI Europe stated that it was necessary to clearly reaffirm the right of airports to impose a fee for access on a non-discriminatory basis, i.e. both to third party handlers and to self handlers.

5.200 In some cases, airports have taken the opportunity to levy new types of access fees. In Rome, ADR is extending access fees to all categories. For instance, a number of airlines have always performed routine aircraft servicing before flight (category 8.1 in the Annex), but ADR is now asking those airlines to pay 3% of the revenue that a third party handler would generate for performing these services. On the other hand, in Vienna some access charges have been waived as of 1 January 2002 to stimulate business.

5.201 Ground handlers and self-handlers dispute the airports' demands for an access fee. In referring to the Directive, they are of the opinion that an access fee infringes the stipulation laid down in the Directive of free access to the ground handling market.

5.202 The airlines view access fees as an additional cost burden that they ultimately have to carry. It is perceived as not cost-related and more closely resembling a royalty paid by the handlers to the airport operator. AEA was of the opinion that airlines have already contributed greatly to investments at airports, and it is the airlines not the airports that attract the passengers. In its opinion, airlines should therefore not pay access fees. AEA further reasoned that it is airlines that create the business opportunity, not the airport: the passenger has a contract (ticket) with the airline. British Airways considered that it already paid for everything at the airport and by being charged an access fees it effectively pays thrice: check-in desk charges etc., aeronautical charges for common areas and the access fees. It believed the levying of the access fee comes down to compensating the airport for loss in revenue.

5.203 IATA indicated that paragraph 16.3 of the Directive has given certain airports the opportunity to introduce new fees of all types, not necessarily relevant, and in most cases not done in an objective and transparent manner. IATA argued that this has simply resulted in additional costs to airlines, a double charge in most cases. Therefore, IATA proposed that additional wording be introduced in paragraph 16.3 to protect the airlines from such abuses. It suggested: *"Any access fees and central infrastructure fees at airports shall be cost-related and shall be determined according to relevant, objective, transparent and non-discriminatory criteria"*. In line with ICAO policies on airport charges, IATA objected to any fees, levies and charges which were not cost-related and were not transparent, even more so if revenues from such fees were not used to reduce other aeronautical charges.

5.204 Furthermore, carriers also complained about the lack of consultation regarding the introduction of new access and centralised infrastructure fees. Users in Spain and Portugal not only oppose the introduction of such charges (e.g. H-tariff in Spain) but the lack of any consultation with AUCs from Aena or ANA respectively. It is also a concern of PGA in Portugal that it cannot find any relation between the fees from the airport operator ANA and its corresponding cost. Aena mentioned that the H-tariff is cost-related and the Spanish transposition of the Directive does not include the consultation on fees for CI.

5.205 In both France and Germany, there have been legal cases challenging the right of airport operators to levy charges for which no services or facilities are received in return. The French Conseil d'Etat has explicitly declared market access fees, which are non-service related, to be illegal. However, ACI Europe mentioned that this decision has been taken under the specific French law relative to airport charges and not to the national legislation implementing the Directive. Following this decision, Nice Airport cancelled its access fees, but introduced a fee for 'services provided' that covers the investments by the airport operator (Chamber of Commerce) to guarantee that handling activities are performed safely and efficiently. Lufthansa and other self-handlers in Germany are not paying access fees for land side handling until the European Court of Justice has, at the request of the Frankfurt Oberlandesgericht, issued a preliminary ruling on the admissibility of the access fee, with Hanover Airport being a test case.

5.206 Lufthansa is not paying the access fee, because it is of the opinion that airlines have already paid for everything at the airport (aeronautical charges, rents for offices and check-in counters) and that an access fee is not cost-related. Lufthansa argued that *"if concession fees are grasped as a market access fee, we believe airlines differ from handlers as airlines together with the airport are 'creating' the market and not handlers who profit at the same time from the airlines having to a large extent financed airport infrastructure"*.

5.207 In Italy, complaints were made to us that the fees for access, CI and check-in counters are very different from one airport to the other. The Italian Board of Airline Representatives (IBAR) expressed the view that ENAC has not clarified this and has not given proper guidelines: it should rescind amendable bureaucracy and start taking decisions on the matters.

5.208 The independent handlers object to the application of access fees on a number of grounds: they are an unnecessary financial burden on an industry in which margins are already very low across the board and their non-application to self-handlers (e.g. Birmingham and some Scottish airports) distorts the market for third party business, despite the provisions for accounting separation<sup>57</sup>.

5.209 Access fees are regarded as particularly invidious at locations where the airport operator (or a subsidiary) competes for third party contracts, again despite the provisions for accounting separation. In Frankfurt, Acciona Airport Services is not allowed to show on its invoice to customers the access fee charged by Fraport.

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<sup>57</sup> This non-application to self handlers is not common practise throughout the Member States.

5.210 ASIG handling mentioned that access fees at Stansted have been eliminated, but costs are included in other charges such as rental of check-in counters.

5.211 We offer some commentary on the position of access fees following discussion of a closely related subject, Centralised Infrastructure at Paragraph 5.229 *et seq.*

## Centralised infrastructure

5.212 Article 8 of the Directive allows Member States to reserve for the managing body of the airport (or another body) the management of the centralised infrastructure used for the supply of ground handling services whose complexity, cost or environmental impact does not allow for division or duplication. The airport operator may make it compulsory for suppliers of ground handling services and self-handling airport users to use these infrastructures, and may also charge for the use of these facilities.

5.213 Although there is a core set of facilities defined as centralised infrastructure (CI) in most airports, there are variations (see Section 2). In most airports, users were consulted and a consensus established in the airport community on the definition of CI that was most appropriate for that airport given its physical constraints. An example of this was Stuttgart. There are some exceptions to this consultation process, though there is no obligation to do this under Article 8 of the Directive. For example, the AUC in Naples complained about the way the list of CI was developed and expressed its concern about the lack of information provided by the airport. At some airports, CI is not defined at all. In some cases the community has no desire for this (UK airports), but in Portugal users would like to see CI to be defined, but ANA has not yet completed this.

5.214 Many stakeholders in Italy identified the definition of CI as a problem. They are not in agreement with the list drawn up the airports<sup>58</sup>. For example Alitalia indicated that its cargo warehouse at Rome FCO is defined as CI by the airport and therefore Alitalia can only use its warehouse for self-handling and not for third party handling. ADR mentioned that the transport of freight and mail between the aircraft and station has been tendered, and at present the cargo warehouse at Rome FCO is considered a CI since it has the requirements. Furthermore a new cargo city is under construction and after completion the cargo market will be liberalised according to ADR. DHL has experienced problems related to CI in Bergamo, where it is a self handler and where the airport authority SACBO is the only third party handler. DHL indicated that SACBO wanted to increase infrastructure fees for self handlers dramatically, without lowering any other fees or making any new investments. DHL has argued that this is abuse of dominant position and a cross subsidy of the internal handling activity.

5.215 Airport operators have indicated they do not always receive the proper support from the national administration. For instance, the implementation in the Dutch legislation requires the Minister of Transport, in co-operation with the airport

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<sup>58</sup> ENAC has a responsibility to review the list of CI at each airport.

operator, to play a specific role: definition of CI and the setting up of criteria for new ground handling entrants, but the Schiphol Group feels the Minister's role has not been properly fulfilled.

5.216 The interface of CI is a concern for handlers. In Germany, the potential business for the independent handler in some cases is reduced, because the handler is not allowed to pick up the baggage from the belt (e.g. Stuttgart and Munich). In Stuttgart, Servisair decided to sub contract the baggage transport from the belt to the aircraft, to the airport operator, although these were no obstacles preventing it from to undertake this activity itself. As passenger transport from and to the terminal was sub contracted as well, the scope of the remaining handling business or hence the degree of competition was further limited.

5.217 The way CI is charged for also varies from one airport to another. For example, in Brussels and Helsinki, CI is mainly covered by passenger charges. Portugal has not defined CI at all.

5.218 In Copenhagen, there is a legal case about the fee for the baggage sorting system (other CI is covered by airport charges). Another legal case occurred in Ireland, where Ryanair challenged the increase of check-in counter charges and introduced an administration fee. Ryanair considered the issue was not so much the percentage of these costs relative to overall handling costs but more that Aer Rianta could increase or introduce new charges, without any justification, and therefore increase handling costs. In this respect the CAR noted that certain fees never came before the CAR for consideration, even though they may be the type of fees for which national legislation envisaged approval to be required.

5.219 Aer Rianta commented that Ryanair took action in relation to its views on the issue of opposition to certain charges imposed by Aer Rianta and lost in the High Court. The Court accepted the contention that the charges in question were not in respect of "access to airport installations". Ryanair has now decided to appeal this ruling.

5.220 As mentioned earlier, in situations where the airport operator is involved in handling it is possible that the airport operator gives a discount on CI to its own handling customers, abusing its dominant position. DHL is of the opinion that CI is a major cost factor under airport monopoly control. Checkpoint B argued that airports are using infrastructure as a marketing tool, and it is to their advantage to administrate it, by offering discounts. According to Checkpoint B, this is the main problem that needs to be solved.

5.221 In general there is a call from stakeholders for transparent pricing schemes, which are less complex and better structured. For many parties it is unclear if the charges from the airport for CI are cost-related and if the airlines have already paid it through the aeronautical charges. Users in Naples complained about the charges associated with CI citing the lack of transparency of the process.

5.222 Lufthansa supported a cap on fees for CI, for example by creating a maximum as a percentage of total handling costs. Both Lufthansa and British Airways have identified significant differences in CI prices as a percentage of the total price that needs to be paid for handling services. Lufthansa estimates that the percentage ranges

from 17% in Vienna to 68% in Germany (as of August 2000), while British Airways has experienced a range from 10% to 60% within Germany. The higher the costs for CI, the less the scope independent handlers have to vary their charges. This has been a reason for British Airways not to choose the new entrant in some cases. IACA was of the opinion that the CI element of the entire turn-around cost in German airports is too large. On the other hand Air France in Lyon mentioned its costs as a handler for CI were marginal (only rental of areas), whereas Brit Air (self handling) estimated this to be about 18%.

5.223 Servisair made clear that the issue concerns airports which as monopoly suppliers decide to give CI as wide a definition as possible on the basis of space constraints (even though multiple users successfully operate in equal or smaller space at other airports). Such an airport would then apply a charge for CI which, in addition to cost, includes a profit equal to that which it received from the full handling previously undertaken. This then enables the airport to offer handling on a marginal or even breakeven basis without affecting their overall historic profit. According to Servisair this also has the benefit of so reducing the service provided by the competitive handler that the airline sees an advantage in having just one supplier: the airport.

5.224 Lufthansa argued that an equal division of the fixed costs of CI is a discrimination of the frequent user, because variable costs lack economies of scale they can and should be distributed equally across users. In its view, volume discounts should therefore be mandatory for frequent users (otherwise CI fees would be discriminatory and not cost related).

5.225 In Portugal, PGA Portugal Airlines was of the view it is being double charged for use of check-in counters (although as noted earlier there is no formal definition of CI at Portuguese airports). It pays a monthly fee to ANA for the use of check-in counters, but is faced with an additional charge of ANA for handling the passengers of code share partners.

5.226 In Spain users were not consulted by the airport managing body (Aena) before introduction of the new access and centralised infrastructure fees (H Tariff) in January 2002<sup>59</sup>. As mentioned earlier Aena pointed out that the H-tariff is cost-related and the Spanish transposition of the Directive does not include the consultation on fees for CI.

5.227 ACI Europe has conducted a study on the fees paid for CI, that showed that in certain cases some CI such as de-icing or baggage systems may be managed by entities (airlines) other than the airport managing body. Secondly, it remarked that at most airports CI is not charged via special fees or, if it is, the fees are cost related. Furthermore, ACI Europe mentioned that national legislation usually required the level of the fee to be approved by the authorities, as with other airport charges.

5.228 BIAC considered that while certain activities should strictly speaking be considered as ground handling services, in reality there was very little commercial interest for these services from the traditional ground handlers (e.g. bussing, special

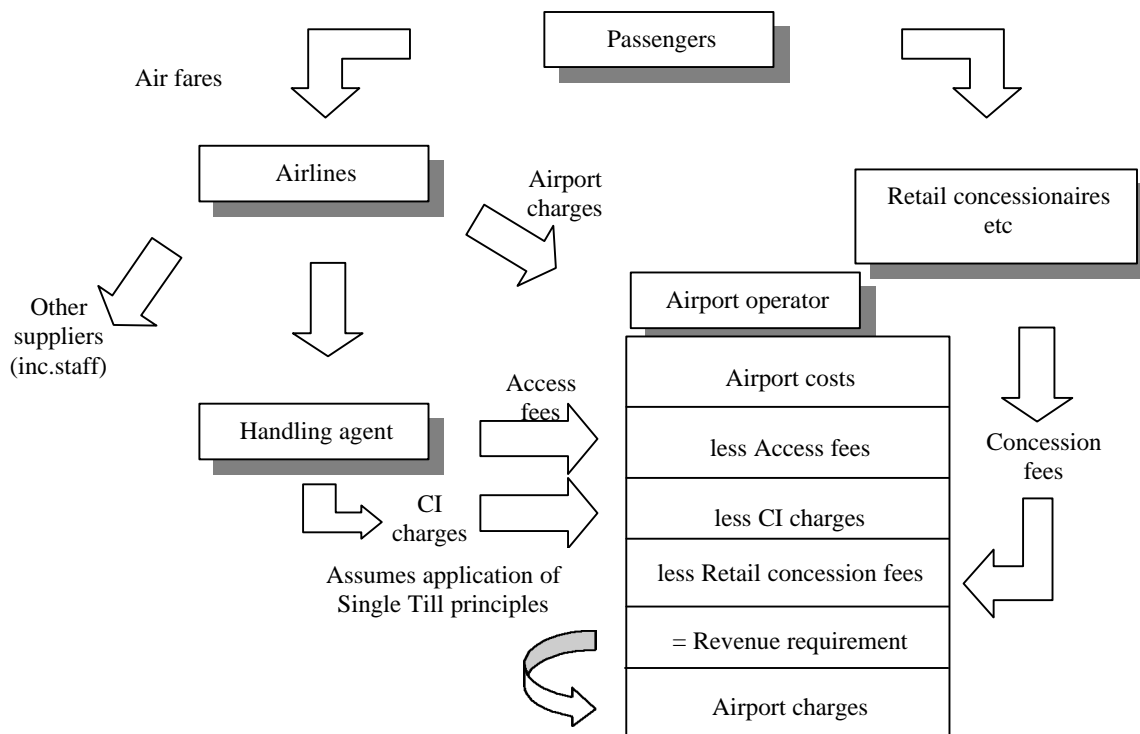
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<sup>59</sup> Aena mentioned that it did not introduce any access fees in January 2002

assistance, transport of valuables/perishables). BIAC would like to see clarification of whether these activities should be considered as a CI (only one service provider, because otherwise no commercial interest) or if these might be assigned to subcontractors by the ground handlers. However, BIAC did foresee some problems in relation to circumvention of the selection procedure, especially when dealing with self-handling.

5.229 There are a number of issues associated with the charges for CI, but one is a feeling amongst users that they are being charged twice (or more) for the same facilities. The other channels by which the airlines may be paying for facilities are the access fee and normal airport charges. We set out in Figure 5.6 a schematic of some of the major revenue flows within an airport environment.

**Figure 5.6: Airport revenue flows**





5.230 While the need for greater transparency in airport costs has been a general message given to us by airlines and independent handlers, it may be discerned from Figure 5.6 that paying twice (or more) for the same facilities is not a necessary consequence of either a lack of transparency of costs or the existence of access fees and CI charges (whatever other effects such charges might have). As shown, these revenue receipts of the airport operator should all contribute to reducing the revenues that need to be raised from airport charges. This assumes the application of Single Till principles, which is still the most wide-spread approach to establishing airport charges<sup>60</sup>. In a Dual Till (or some hybrid of a Single Till), while commercial concession fees would not off-set the revenue required from airport charges, it is likely that revenues from (ground handling) access fees and charges for CI still would.

5.231 When seen in this light, the existence and level of access fees and CI charges is less important than both the regulatory regime under which airport charges are levied or level of airport profitability determined; and the underlying efficiency of the airport operator<sup>61</sup>. Such issues are clearly beyond the scope of this review.

## **Employment and social aspects**

5.232 Under Article 18 in the Directive, Member States may take the necessary measures to ensure protection of the rights of workers and respect for the environment, without prejudice to the application of the Directive, and subject to other provisions of Community law.

5.233 Ground handling is a labour intensive business: it is the general view of handlers that about 80% of their total costs are related to labour. ETF, the association representing all ground handling employees in the EU, indicated that while employment in ground handling has increased, this growth has only been 50% of the growth of traffic. It stated that though staff employed for ground handling by the largest eighteen airlines in Europe has grown quickly by 25% (in absolute numbers from about 70,000 in 1995 to about 87,000 in 1999), handling staff as a percentage of total employees remained relatively constant: 25% in 1995 and 26% in 1999. ETF further made clear that insight in staff numbers of independent handlers is difficult to obtain, but in France staff of independent handlers has more than doubled from 2,167 in 1996 to 4,662 in 1999. ETF has argued that these increases have been achieved by “massive” redundancies of public handling operators, especially as a result of the necessity for airports to separate accounts. ETF expressed the view that as several handling agents have ceased operations, this has led to social plans and employees being made redundant.

5.234 In Germany, Italy and Portugal there are special clauses in the national legislation to protect employees, including the transfer of employees from existing to new handlers upon change in an airline’s ground handling supplier. In this respect

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<sup>60</sup> For example, the UK Civil Aviation Authority considers the Single Till to be the basis for the determination of most airport charges, even though there may well not be an explicit economic regulatory regime. This is also our experience.

<sup>61</sup> Other issues in relation to access fees and CI charges as discussed in this report still remain, of course.

Aviapartner mentioned that in Germany no party seemed responsible for the fair application of new rules. The BADV protects only the airports' staff, not the new entrants (new handlers might be forced to take over staff from the airport, but airports would not be forced to take back staff if a customer returns or the handler disappears). Alitalia indicated that Article 14 in the Italian ground handling law, which relates to the transfer of staff, is the biggest ground handling problem in Italy.

5.235 It is the view of independent handlers that the transfer of staff distorts competition and discourages handlers from enlarging their market share (especially if there is a three months notice period as Servisair experienced in Stuttgart). In Germany there is a clause in the national legislation that states if staff are not taken over by new entrants, the airport has the right to levy higher charges for access to airport installations<sup>62</sup>. In some cases, airports require special training courses for new staff, and the independent handlers view this as a way to generate extra revenue for the airport. IAHA expressed the view that personnel transfer obligations distort competition, especially if the airport determines the terms, the number and the specific employees (poor staff selected). It further stated that in many tenders in the Member States, staff transfer criteria played an important role in the handler selection process.

5.236 In Rome, one of the new entrants (EAS) complained that the airport ground handling company had sent too many staff in relation to the level of activity transferred and they also had relatively high wages. These two factors had the immediate effect of increasing the new entrant's cost base and making it less competitive. Currently, there seems to be a wide confusion in Italy regarding the validity and the application of this article, which is leading to different regional outcomes. Stakeholders require clarification on this issue, as well as a standard approach across the country's airports.

5.237 Unions and work councils shared the view that the implementation had a number of negative impacts as summarised in Table 5.2<sup>63</sup>:

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<sup>62</sup> In Germany actual transfer of staff to new entrants has not taken place. But for example in Hamburg there has been a change of airport staff to the entrants on the base of free will from both sides. The work council indicated that the new entrant draw away staff from the airport operator, thereby picking the best.

<sup>63</sup> ETF mentioned that pressures on jobs, levels of qualification, wages is not proved by reliable and adequate data.

**Table 5.2: Negative impact of Directive**

Lower salaries;	Insufficient conditions for the take over of staff in German law;
Deteriorating work and security conditions for workers and customers;	No participation of work councils in AUC to get information from first hand (not from the workers) and to come up for social items;
Lower quality levels;	No social aspects in the tender process;
More safety and security issues; also as a result of higher turnover of employees due to lower salaries.	Increase in activity on the ramp can lead to congestion and thus longer working hours for employees (this will become worse with more handlers).
Deteriorating working conditions: more pressure on staff due to increases in productivity (e.g. the increase in workload / productivity is equivalent of 15% less salary in Germany)	With the contracts between handler and airlines becoming shorter, there is less job security as job contracts become shorter as well and increase of the prospective risk for losing a job; shift to more flexible contracts for employees

5.238 The Italian CAA department representing employees made clear that the protective labour legislation was necessary because there is not sufficient social security in Italy (compared to Northern European countries) for ground handling employees that lose their job.

5.239 It is a general concern throughout the Member States that it is more difficult to find and keep qualified handling employees: there is a high turnover in staff. Furthermore, handling activity can have significant peaks: for example, Servisair in Dublin needs to double its staff on Saturdays (compared to weekdays) resulting in very high costs of labour since it is nearly impossible to employ part time staff in Dublin. Servisair ends up paying staff for times when they are not required. It advocated a more spread pattern of demand (slot managed airport), leading to a more cost effective handling business. This is not obviously an issue arising from the Directive.

5.240 The handling liberalisation process at major Spanish airports required the transfer of staff from the incumbent to the new handlers as a social measure aimed at safeguarding employment and labour stability. The staff transfer levels between handlers were based on market share gained during the previous year. For example, if the new handler gained a 20% market share from incumbent during last year, the former was obliged by law to take over 20% of the latter's workforce. This transfer process lasted for three years or until 35% of incumbent's workforce was transferred. According to all parties interviewed, the actual transfer process proved to be very difficult (in relation to, *inter alia*, the basis for staff selection, and recognition of labour liabilities by new employers), and triggered a long legal dispute between workers and handling agents.

5.241 Soon after the first transfers (in most cases involuntarily) took place from the incumbent (Iberia) to the new handling companies (Ineuropa, Eurohandling and Iberhandling), transferred employees started to face changing working conditions, losing benefits (prerogatives) in some cases with no pay rises. Many cases went to court to challenge the transfer process and demand its nullification. Some applications were made on an individual basis, others on a collective basis (by station or union), but all handlers and airports were affected. The legal review has taken a long time to complete and the outcome has been contradictory: while some local

courts have concluded that the original transfer was legal, others have ordered the return of the staff to Iberia. Even now as Aena is preparing to re-tender Iberia's handling licence, there are still a few cases awaiting judgement.

5.242 According to most of the parties interviewed in Spain, the staff transfer has proven a difficult process for most of the stakeholders (i.e. handlers, workforce, carrier) in some cases and has had an impact upon labour relationships, and workforce stability. It has generated an additional burden for handlers, and to a lesser extent, resulted in poorer service standards. As some licences are to be re-tendered soon, handlers are concerned about whether staff transfer rights would be preserved, and what would happen to the outstanding court cases.

5.243 Several handling agents commented that their staff welfare was jeopardised as result of handling price wars. Drastic price reductions forced managers into cost cutting measures which normally affected salary levels (often lowering them to minimum wages levels), working conditions (longer hours), benefits, etc. There seems to be a general consensus amongst stakeholders in Spain and Greece that the liberalisation process has led to deteriorating workforce salary levels and working conditions in general.

5.244 Handlers at smaller island resort airports (e.g. Fuerteventura, Mahón, Ibiza) have experienced staff shortages particularly during the peak season. Recruiting staff has been traditionally an issue but this is worsening even further during the last few years as result of low salary levels and deteriorating working conditions. Moreover, there are also complaints of higher than normal operating costs due to high staff turnover, training (initial plus recurring), recruitment, uniforms, etc. which can put handlers in a uncompetitive position.

5.245 In France some ground handlers have started to rely extensively on temporary staff or sub contractors in order to adapt more easily to loss (or gain) of activity, given the limited flexibility offered by French labour law and the costs of making staff redundant. Furthermore, this has also been a primary strategy to reduce labour costs. This increased level of sub contracting and use of temporary staff has contributed to a higher staff turnover and a lower level of qualification.

5.246 IAHA made clear that in its view there are worrying developments in France and Belgium. There are proposals for new draft labour contracts that would force new handlers to take over the full-dedicated ground handling staff and salaries from outgoing handlers. IAHA noted that only a new handler must accept the work force and labour contracts if the full 'economic entity' is transferred between handlers. If handlers in all instances were bound by the size of the labour pool and the salaries of the incumbent handlers this would discourage market penetration.

5.247 ETF mentioned that airlines and airports had historically high standards for training of employees for safety and security purposes. The arrival of new entrants brought untrained people to the work place. To avoid deteriorating levels of qualification and training of staff, unions have tried to establish minimum levels. In the present situation, it is not unusual to wait for a serious accident to happen before parties react.

5.248 Workers councils are of the opinion that the protection of employees should be made stronger in any revision of the Directive. For example, the work council in Nuremberg supports reinforcement of Article 18 in the Directive as no harmonisation took place. ETF has called for harmonisation on a community level with regard to the transfer of staff between handlers and for guarantees for employees to keep their jobs and salaries.

5.249 British Airways in Birmingham expressed the view that, assuming competition lowered handling prices, handlers would be forced to employ less qualified people on minimal wages, resulting in lower quality and a lack of expertise. If this were to continue, all parties would lose in the end, including the airlines.

5.250 In France, new entrants have not been obliged to take over staff in a situation in which they take over customers from the incumbent handlers. The two collective agreements in Paris do not provide for this. According to ADP, this has caused serious losses for sub contracting companies at ADP's airports. For instance, FHP ceased operations and closed down, making a large number of the 260 employees redundant (and costing some € 2.7 million)<sup>64</sup>. Recently as a result of social pressure and several strikes the unions have come to an agreement that facilitates the transfer of staff when a commercial handling contract is taken over. However, the party taking over the staff is free to decide on the number of employees it wants to take.

5.251 The work council in Munich is of the opinion that the Directive and the German legislation on ground handling does not sufficiently provide regulations to protect the social security of employees (the Directive has "abolished" the existing regulation). Furthermore, it has argued that qualification standards have decreased, because training courses have been cut and for new employees the training period has decreased from six to three weeks. Service levels are also a concern, as a result of lack of experienced personnel; wages have been cut by 25%, which has led to difficulties in recruiting new employees. Work conditions are perceived to be deteriorating, as productivity has increased by 50% since 1992, leading to high illness resulting from pressure on work. This has also been accompanied by an increase in work accidents.

5.252 The work council in Nuremberg is of the opinion that the new entrant in German airports should join in a social plan if it did not take over staff when it gained market share. The work council also considered that it should participate in meetings with AUC. It further argued that implementation of the Directive had two results that contradict its original intention: "competition for market share is not determined by the quality factors, but by price" and it has led to "an increase in unit costs in the central segments of the market that both the airport handlers as the independent handlers try to compensate by increases in productivity and a worsening of social conditions". It is a concern that employees of the new entrants are not represented by unions.

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<sup>64</sup> ADP estimates that it costs approximately € 20,000 to € 30,000 to make an employee redundant.

5.253 Concern was expressed by a knowledgeable party that wished not to be identified that commercial pressures were such that it was becoming difficult to attract and retain staff of the necessary calibre, with potentially serious consequences for safety and security standards.

### **Sub contracting**

5.254 Sub contractors are not defined in Article 2 in the Directive and there is no specific article that relates to sub contracting.

5.255 In Dublin problems have arisen with regard to the sub contracting and the legal position in relation to approvals where one ground handler has sub contracted ground handling activities to another. Aer Rianta noted that self handling is described as when 'a direct user directly provides for himself one or more categories of ground handling services'. However, in Dublin some self handlers only undertake part of the activities within a category. There was a situation where an approved self handler sub contracted some of its activities. The self handler argued that its sub contractor did not require approval, because only a small part of its handling activities was sub contracted and this would be covered by their self handling license.

5.256 The Irish government sought assistance from the European Commission. Aer Rianta and the Commission for Aviation Regulation (CAR) now approach this situation in accordance with the recommendations from the European Commission: 'an airline could be considered as a self handler for certain sub categories and ask for suppliers of third party handlers for the other ones in the category. The only obligation required by the Directive is that these suppliers must be considered as a third party handler and not as a sub contractor'. Aer Rianta noted that sub contractors were not explicitly defined in the Directive and it treats sub contractors in the same fashion as third party handlers.

5.257 Another issue raised by Aer Rianta to the CAR, is whether or not a recruitment company who supplies staff to a self handler requires an approval to engage in ground handling activities. In Dublin there was a situation where Ryanair hired or was supplied with staff from a recruitment company. The CAR is of the opinion that staff from a recruitment company would not have to apply for approval, as they are not engaged in the provision of ground handling services (it is the responsibility of the ground handler that staff are properly trained, which in any event is a condition for approval for a ground handler). This issue was solved when the personnel from the recruitment company were under the clear supervision of Ryanair personnel. Aer Rianta would like clarification of sub contracting in any revision of the Directive, especially related to use of staff from another company.

5.258 As mentioned earlier, we have received complaints that in some cases in Italy (e.g. Alitalia in Rome Fiumicino) the airport operator has the right according to Article 20 of the national legislation to keep sub contracting work to particular organisations, but that it prohibits other handlers from sub contracting, therefore distorting competition (a similar situation exists in Nuremberg with Aviapartner). ADR pointed out that none of the handling activities carried out by ADRH are subcontracted.

5.259 According to ACI Europe numerous airlines attempt to challenge or to avoid/evade the definition of self handling and to turn the objective and rules of the selection procedure, especially by presenting themselves as self-handlers while sub contracting part of their activities to small handlers, that are not considered as official handlers. The objective is both to avoid going through selection procedures and to impose their prices on small handlers which would have no official statute or chance to be selected. Furthermore, at several airports, some airlines may be considered as official but virtual handlers because most or all activities are sub contracted.

5.260 Moreover, ACI Europe mentioned that in several Member States sub contracting is applied without specific prior declaration to or control by the airport authority. This may have very important consequences, not only at social level, but also in terms of safety and security especially for operations where the training of staff is very weak.

5.261 It is a concern to AEA that there is a monopolistic situation for the suppliers of fuel or their sub contractors.

5.262 Aviapartner in France argued that due to sub contracting there are more companies involved in ground handling at CDG than the number of licences allowed. Therefore, the limitation has been used to protect the incumbent operators. Air France is of the opinion that the definition of self handling is too restrictive in terms of sub contracting possibilities.

### **Miscellaneous issues**

5.263 IACA made clear that a major concern for many airlines is the rapidly escalating cost of assistance they are required to give an increasing number of customers in order that they might move through ever larger airport terminals. In particular, many leisure travellers are passengers with reduced mobility (PRM). For example, Air 2000 carries over 20,000 personal wheelchairs and pays well over £1 million per annum to handling agents for wheelchair assistance or lift-on/lift-off service at airports. The costs relating to PRM handling at the airport should not fall wholly either on the passenger or the airline but would instead be shared out equally through a small additional supplement on the passenger charge. IACA argued that the key to this proposal would be to regulate that certain minimum standards for disabled handling must be applied at all airports and, except in cases where an airline demonstrates that it self-handles to this standard, that the cost of the service is funded through a central charge.

5.264 BMi has its own team to help passengers with reduced mobility. The idea of an EU wide fund (paid by the passengers), that could be available to all users that require services is supported by BMi. At London Gatwick, this has been tried on a voluntary basis, but there was not enough support from the users. However BMi expressed the view that taking part in a EU wide fund should be up to the airlines individually, and not be mandatory. BMi argued that if there was to be such a scheme, there should be a facility for airlines to opt out of any airline/passenger contributory fund, provided that their PRM services were to agreed standards.

## 6 Postal Survey

### Introduction

6.1 In addition to visiting 33 airports, we sent a written questionnaire to all airports in the Member States above the thresholds of 2 million passengers or 50,000 tonnes throughput of freight (under Article 1.2 of the Directive)<sup>65</sup>. In this Section we discuss the results of this survey.

6.2 We requested and received from ACI Europe contact details of executives at the 48 airports as specified in Appendix B. In mid-April, we contacted these individuals to inform them of our study and to request contact details of the right person to deal with ground handling. This resulted in further details of employees nominated by airport operators to complete and distribute our questionnaire(s), the individuals concerned ranging from airport directors to operational managers.

6.3 In mid-May, we e-mailed to these contacts at each of the 48 airports, three different questionnaires, one for each of the following parties: airport operator, Airport Users' Committee and ground handlers<sup>66</sup>. All three questionnaires were based on the original questionnaire from the European Commission in its request for proposals. However, this original questionnaire was changed specifically to incorporate comments from stakeholders during the kick off meeting in Brussels (15 January 2002) in addition to our own experiences with it from the airport visits<sup>67</sup>. We asked for assistance from the contact persons to distribute the questionnaires to the AUC (that was further invited to distribute it to individual AUC members) and to the ground handlers: independent third party handlers and the major self handling airlines. On a separate basis ACI Europe encouraged its members to complete the questionnaire.

6.4 Each of the parties was asked to submit the completed questionnaires directly to SH&E before 21 June 2002. The week following this deadline we contacted non-respondent airports and asked them to complete the questionnaire and to encourage the AUC and ground handlers as well. In addition ACI Europe followed up by encouraging once more its members to complete the questionnaire.

6.5 The responses received by 23 July 2002 are shown in Table 6.1 (a blank cell means no response). As may be seen from two countries (Belgium and Greece) we have no response at all. Very few responses have been received from Italy, while many stakeholders in France, Germany, Spain and the United Kingdom have completed the questionnaire. From Ireland, Portugal and Sweden few responses were received, although few airports were approached in these countries. In total 27 airport operators, 8 AUCs and 27 ground handlers responded to our postal survey.

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<sup>65</sup> Opening up of airports for self handling should be at airports with lower thresholds (i.e. more than 1 million passengers or 25,000 tonnes of freight).

<sup>66</sup> Some individuals received faxes for practical reasons.

<sup>67</sup> Furthermore the lay out was changed to allow for self-completion.



**Table 6.1: Responses postal survey**

Country	Airport	Airport operator	AUC	Ground handlers	Remarks
Belgium	Oostende				
	Liège-Bierset				
France	Paris-Orly	Yes		Yes	ADP Handling, Cariane,
	Marseille-Provence	Yes	Yes		
	Bâle-Mulhouse			Yes	Swissport
	Bordeaux-Mérignac	Yes			
	Strasbourg-Entzheim	Yes		Yes	Aviapartner, ISS
Germany	Berlin-Schönefeld	Yes			
	Berlin-Tegel	Yes	Yes		
	Hahn	Yes			
	Dusseldorf		Yes	Yes	Aviapartner, FDG Handling
	Hannover-Langenhagen			Yes	Aviapartner, Hannover Aviation Ground Service
	Leipzig-Halle	Yes	Yes	Yes	PortGround
	Köln-Bonn	Yes	Yes	Yes	Aviapartner
Greece	Thessaloniki				
	Rodos				
	Kerkira				
Ireland	Shannon	Yes			
Italy	Milano-Linate	Yes			
	Bologna-Borgo Panigale				
	Cagliari-Elmas				
	Catania-Fontanarossa				
	Palermo-Punta Raisi				
	Bergamo-Orio al Serio				
	Venezia Tessera				
	Torino-Caselle			Yes	Sagat Handling
	Verona-Villafranca				
Portugal	Funchal				
	Oporto-Sà Carneiro	Yes		Yes	Portugália Airlines (PGA)
Spain	Alicante	Yes			
	Bilbao	Yes		Yes	Iberia
	Gran Canaria	Yes			
	Ibiza	Yes		Yes	Ineuropa
	Lanzarote	Yes		Yes	ACE Handling, Nordic TFS
	Malaga	Yes			
	Menorca				
	Sevilla	Yes			
Sweden	Göteborg-Landvetter		Yes		
	Malmö-Sturup,				
United Kingdom	London-Gatwick	Yes	Yes	Yes	Inflight Cleaning
	London-Stansted	Yes		Yes	Asig
	Luton	Yes			
	Newcastle	Yes		Yes	Servisair
	Aberdeen	Yes		Yes	Servisair
	Bristol	Yes			
	East-Midlands				
	Edinburgh	Yes	Yes	Yes	Aviance, Servisair
	Glasgow	Yes		Yes	Airline Services, Aviance, Execair, Servisair
	<b>Total responses</b>	27	8	27	

6.6 In the remainder of this Section we discuss the results from the postal survey. All references in this section to specific tables can be found in Appendix G. We discuss the results by issue in the same way as in Section 5 (to the extent allowed by the information we have received). Airports at which no stakeholder completed the questionnaire at all, are not included in the Appendix and have been deleted from the tables.

6.7 Specific issues that were presented to us in this survey have been taken up in the issues Section 5, but in most cases the issues were not significantly different from the issues that we encountered during the airport visits. Lack of responses from stakeholders in some countries makes it difficult to draw general conclusions.

## **Issues**

### **Opening up of the market**

6.8 The change in the number of self and third party handlers (increase or decrease since the implementation of the Directive) in each of the 11 categories in the Annex to the Directive can be found in Table 1 and Table 2 in Appendix G. It may be seen from Table 1 that generally the number of self handlers has changed little, and those changes that did take place were mainly decreases. In general it may be concluded that in all categories the number of third party handlers has increased, albeit to a limited extent. For some categories the number of third party handlers has decreased, for instance the number of freight and mail handlers in Dusseldorf; the passenger handlers in Oporto; and the fuel and oil handlers in Edinburgh. For the limited categories (baggage, freight/ mail, ramp and fuel/ oil handling) the increases have been moderate, with a few exceptions such as Marseille, whereas at two airports no changes have taken place at all (Strasbourg and Leipzig).

6.9 When stakeholders were asked if they found the handling market dynamic after the implementation of the Directive (in terms of airlines changing handlers), the answers were varied, even on a local level the airport operator in some cases perceiving the market as non-dynamic while ground handlers had the opposite view (e.g. Glasgow and Ibiza). On the other hand, it may be seen in Table 3 in Appendix G that stakeholders do agree that for example Gatwick has been dynamic (more than 8 handler changes), while at Leipzig it has not been dynamic.

6.10 In addition to the discussion of the development of handling prices at the airports visited in Section 3, Table 4 in Appendix G shows the same for the airports covered by the postal survey. In general stakeholders believe that handling prices have decreased between 10% and 20%, but as mentioned earlier they have different views about the cause of this change: the implementation of the Directive or the airline industry moving forward (comments in this respect are shown in brackets in Table 4).

6.11 In addition to the discussion of the development of the quality of handling services at the airports visited in Section, Table 5 in Appendix G shows the same for the airports covered by the postal survey. In general most stakeholders believe the quality of handling services has not changed or has increased, but as mentioned above they have different views about the cause of this change.

## **Tender process**

6.12 Table 6 sheds some light on the different tender processes after the Directive came into force. At 10 of the 27 responding airports tender processes have taken place (in France, Germany and the UK). At Paris Orly the largest number of licences (five) was tendered. Selection criteria were defined either by airport operators, local Ministries or CAAs, and in most cases applications for bundled services were necessary. There were very few remarks from stakeholders on potential unfair elements of the tender process.

## **Involvement of the airport operator in ground handling**

6.13 In Table 7 an overview of the involvement of the airport operator is given. At 12 of the 27 airports the airport provides handling services. Four of the seven responding handlers/users considered that this distorted competition. All the airport operators mentioned have separated these accounts from those for activities other than ground handling properly (creating independent profit centres). In general this is checked by accountants or the CAA and in Dusseldorf also by the AUC.

## **Airport Users' Committee**

6.14 At all the airports from which we received responses, an AUC exists (see Table 8), and is a new committee (except in Marseille). As is the case at the airports visited, voting takes place in different ways: based on MTOW, ATMs or each member has one vote. In two cases the airport is represented on the AUC as well (including having a voting right).

6.15 Some parties took the opportunity to make further comments related to the functioning of the AUC. For example ACE Handling noted the AUC was still not approved in Lanzarote, though after the implementation of the Directive the handlers have been consulted more on important issues. The fuel handling agent ASIG noted that important decisions have been taken without consultation with the AUC (e.g. check-in/stand allocation and charging mechanisms). Iberia in Bilbao mentioned the AUC has never been consulted. From the AUC at London Gatwick it became clear that although British Airways represents about 30% of the votes, it does not dominate the AUC, because there is an unofficial agreement that it will abstain on matters relating to third party handling. In Marseille, the AUC considered that it achieved the complete liberalisation of the handling market (decided on an unlimited number of handlers). The airport operator in Strasbourg would like to see a limitation of votes for each member in the AUC, as currently Air France dominates this committee (representing 85% of the votes).

## **Degree of competition**

6.16 The profitability of ground handlers is shown in Table 9. As may be seen, in the French, German and Italian markets the handlers (Swissport, Aviapartner, PortGround and Sagat) indicated that they did not make profits, although the Spanish and Portuguese markets seem profitable for PGA, Iberia and Ineuropa. The UK proved to be marginally profitable for some handlers, though Aviance seems to have performed better.

6.17 Table 10 suggests that airport operators and AUCs (except for the one in Göteborg) have not been aware of any factual frustration or practical hindrances for handlers in their operations. Five of the 17 ground handlers have experienced some frustration, but only very few indicated what the nature of the frustration has been. Aviapartner indicated that in the German market the airport for example offers discounts on CI, marketing subsidies and it sometimes had no choice for facilities (it has to accept what the airport offers). Servisair considered access fees as an example of factual frustration.

6.18 Estimates for the contestable market for passenger, ramp and cargo handling are presented in Table 11. It may be seen that the estimates vary widely from one airport to the other.

6.19 Problems related to Article 6.3 (the independence clause with respect to the airport operator and the larger carriers) were reported in only four cases: according to ground handlers at the airports of Oporto (see Section 5) and Torino and the AUCs at Leipzig and Marseille. No further comments were by the last three parties.

### **Self-handling**

6.20 Based on Table 12 it may be concluded that all applications for self handling have been approved. If the number of self handlers is limited the following selection criteria are used: available space, capacity, security, decentralised check-in system and CUTE membership. The period for which self handlers have been granted a licence ranges from five years (Shannon) to an unlimited period (France, Portugal and some UK airports). Ground handlers have indicated that they have problems with the definition of self handling (see Section 5). PGA found the meaning of 'majority holding' unclear in the definition of self handling (see also Section 5), Iberia experienced difficulties with sub chartered flights under a flight code that is normally self-handling. Furthermore, Servisair argued that at the airports of Aberdeen, Edinburgh and Glasgow airlines handling their franchise partners (i.e. technically third party handling) are not paying access fees, while ground handlers do pay access fees. At Paris Orly, self handlers were selected on the basis of the highest volume of traffic.

### **Allocation of facilities**

6.21 In Table 13 we present information on any capacity or space constraints, allocation to new handlers, whether new entrants experienced any hindrances in access to the market, and any preferential treatment by the airport operator.

### **Access fees**

6.22 Table 14 gives an overview of the access fee levied on handlers. At four of the 27 responding airports no access fees were levied: Paris Orly, Shannon, London Gatwick and London Stansted. At the others, the charges are either a percentage of turnover or based on the numbers of passengers or baggage, the amount of cargo or ATMs, or combinations of these. Self handlers do not pay an access fee at all airports in relation to their self handling business, either because they disagree with the fee

(e.g. Marseille<sup>68</sup> and Dusseldorf) or because an access fee is not levied on them (e.g. Edinburgh). Furthermore it is worth noting that the handling categories for which access fees are charged differ from one airport to the other. Servisair in Edinburgh mentioned that the airport operator levies an access fee as it “adds value to the handling business and facilitates handling businesses”: in addition, the airport operator feels that it “ensures fair competition” and pays for the infrastructure. The non-application of access fees to airlines in relation to self handling activities is a major concern to third party handlers at some Scottish airports. BAA mentioned that that self handling airlines providing third party handling are charged the same access fee in relation to their third party handling business subject to their turnover exceeding minimum thresholds.

### **Centralised infrastructure**

6.23 Information about centralised infrastructure is given in Table 15. At some airports (e.g. Shannon, Oporto, UK airports) CI has not been defined. In most cases, except for Marseille and Göteborg, it appears that users have been consulted in making this definition. Aviapartner experienced problems in Germany (see Section 5), while the fuel handling company ASIG mentioned that at airports where oil companies own the facilities, there is difficulty for other fuel suppliers in gaining access to the final storage facility (see Section 5). Table 16 lists the infrastructure defined as CI.

6.24 Some handlers have given an approximate estimate of their costs related to use of infrastructure and airport facilities as a percentage of their total costs (see Table 17). These costs range from about 2.5% in Marseille (ISS) to for example 15% in Edinburgh (Aviance) and 20% in Torino (Sagat).

### **Social aspects**

6.25 The views of changes in social aspects are also not uniform (see Table 18). Ten of the responding airport operators, four of the responding AUCs and ten of the responding ground handlers saw negative changes in social aspects. As illustrations they mentioned strikes, more flexible working times, lower wages, restrictive salary increases, gains in productivity, more staff on temporary contracts and less job security. Iberia was the only party that has seen improvement in social aspects.

6.26 With regard to training standards nine of the airport operators saw changes (see Table 18). As illustrations they mentioned more auditing by the airport, more training, continuity of standards, joint training initiatives on the ramp, more structured training and manuals but negative changes have been incorrect use of equipment. Three of the responding AUCs saw changes, but the only remark was made by the AUC in Göteborg: changes due to external rules and regulations. Nine ground handlers also reported changes, examples mentioned being: airport company shows greater focus and actively encourages operators to work with them, more demands of handler training from airlines, more multi-functional training to reduce costs and

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<sup>68</sup> In Marseille, other handlers also dispute the access fee.

setting up a training department. On the other hand one handler mentioned training had been reduced to the minimum.

6.27 With regard to safety and security aspects, eight airport operators indicated changes in safety and security. This related to problems such as material and persons present on the ramp increases, lack of staff, lack of expertise, increases in accidents and more management time needing to be spent ensuring that safety and security was maintained. In Glasgow and Oporto, the airport operators argued that safety and security have increased. The AUC in Goteborg was of the opinion that due to external rules and regulations changes have taken place. Five of the responding ground handlers have noticed changes.

### **Sub contracting**

6.28 Table 19 gives an overview of sub contracting. At two airports sub contracting does not exist (Berlin-Tegel and Oporto), while at Dusseldorf the airport operator and the AUC/ground handler have opposite views about sub contracting. In a number of instances, a sub contractor was disclosed in the tender (e.g. Alicante), although in this respect there were differences in opinion at the same airport on whether disclosure was needed (e.g. Bilbao). Sub contractors need approval from either the airport operator or the CAA, and in some cases from both. Problems with sub contracting have arisen in relation to a lack of service quality and in one case there was confusion relating to ground handling licence applications (Edinburgh).

### **Reciprocity**

6.29 None of the respondents encountered any problems with Article 20 of the Directive with regard to access to the handling market and the principle of reciprocity for non-Community countries.

### **Positive and negative results**

6.30 In Table 21 we give an overview of the main positive and negative results that stakeholders have experienced from the Directive. There is no clear conclusion on this.