

# **“Your Voice” Consultation on the impact assessment for a possible revision of Directive 96/67 on the access to the groundhandling market at EU airport**

## **Summary of results**

The Public Consultation on the impact assessment for a possible revision of Directive 96/67 on "the access to the groundhandling market at EU airports" was posted on the Europa website ("Your Voice") between 4 December 2009 and 17 February 2010.

The full text of the consultation is still available at: [http://ec.europa.eu/transport/air/consultations/doc/2010\\_02\\_12\\_groundhandling\\_consultation.pdf](http://ec.europa.eu/transport/air/consultations/doc/2010_02_12_groundhandling_consultation.pdf)

The present document is intended to be a summary of the responses to this consultation. It was drafted for the European Commission by the consultant *Steer Davies and Gleave*.

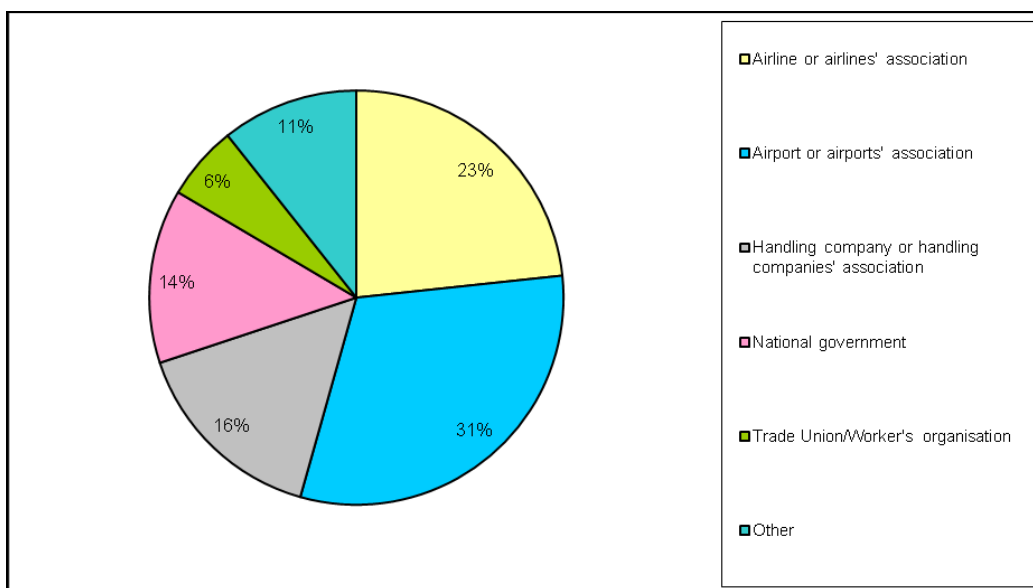
The ideas put forward in the various contributions have been summarised without any interpretation. Opinions outlined in this report do not represent the views of the Commission. The completeness of this summary cannot be guaranteed however, but details can be found by reference to the various contributions published on the website. It is intended solely to assist interested stakeholders to obtain an overview of the results of the consultation.

The public consultation elicited much interest from a broad range of organisations, public authorities and citizens from EU Member States and outside the EU. Altogether, the European Commission received 103 contributions. The contributions respond to all or part of the 31 questions asked in the Consultation document, but several go beyond the questions. The Commission is grateful for such participation, which testifies to the interest for issues raised by a possible revision of the groundhandling directive.

## Categories of respondents

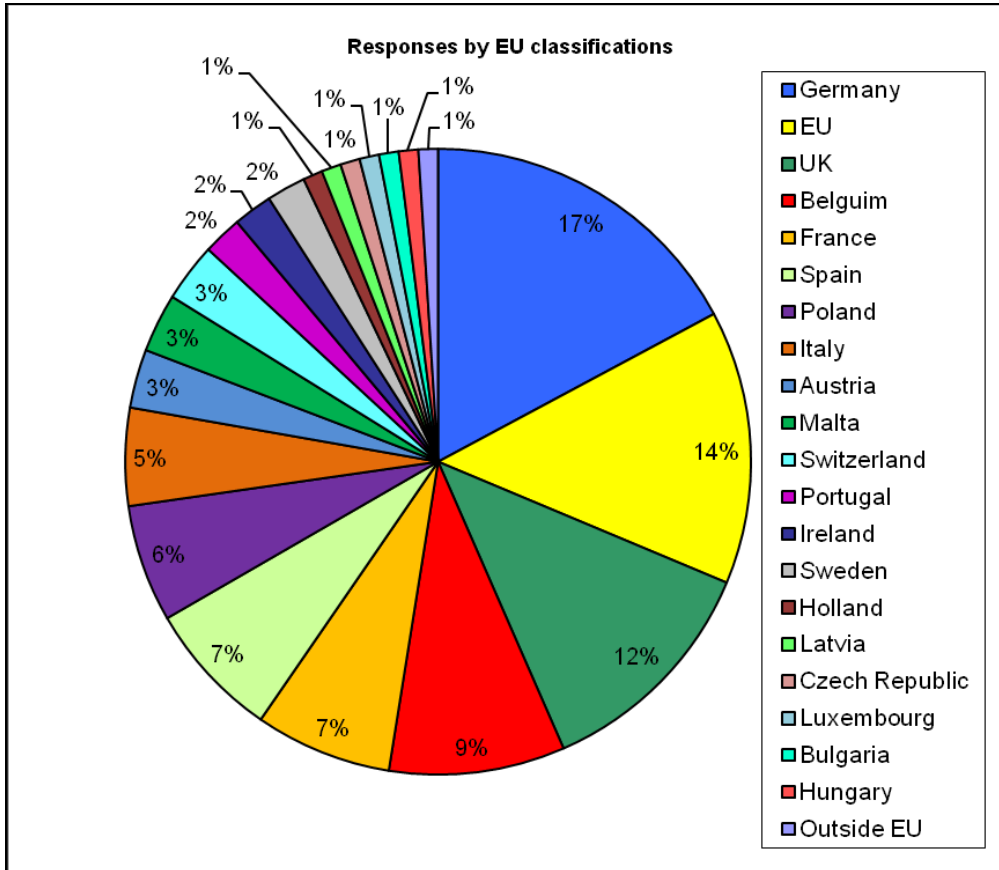
- 1.1 There were 103 respondents to the Internet consultation on the Groundhandling Directive 96/67/EC. As provided in **Figure 1**, the responses were from a mix of stakeholders within the groundhandling industry. Of the respondents, 31% were airports or airport associations, 23% were from airlines and airline associations and 16% handling companies and handling companies' associations. The remaining 30% came from national and regional governments (14%), trade unions/Workers' organisations (6%), and other organisations (11%).

**FIGURE 1 PROFILE OF RESPONDENTS**



- 1.2 As illustrated in **Figure 2**, almost 70% of respondents were from the EU-15 Member States, the states with the most responses were Germany (17), United Kingdom (12) and Belgium (8). 13% of respondents were from the New Member States (NMS) and 15% from organisations that represent membership covering the whole of the European Union. The non-EU responses (3%) came from Swiss companies/Associations and a non-EU based airline.

FIGURE 2 MEMBER STATES PROFILE OF RESPONDENTS



- 1.3 The next section outlines the responses to each question (the full text of the question including background information proposed by the Commission is presented in bold as an introduction). The responses are all ordered by stakeholder group: Member States, Airline Associations, Airlines, Airport Associations, Handling Companies' Association, Handling Companies, Trade unions and workers' organisations and Other. This order is the same for every question and does not represent the importance of the views of each group.
- 1.4 In the Member States respondents group stakeholders such as Civil Aviation Authorities and Government departments are included. They are referred to solely by the country in which they are from. There were also three regional governments who submitted their views. These are not referred by specific region but as different regional government's views throughout the analysis.
- 1.5 The Airline Associations include Associations such as IACA, AEA, ERA and ABBA (Alliance of ACMAB (Airline Cargo Managers Association Belgium), BAR (Board of Airline Representatives-Belgium), BATA (Belgium Air Transport Associations) and AOC (Airport Operators Committee at Brussels Airport)). The Airport Associations include ACI and the Handling Companies' Associations include IAHA.
- 1.6 The Trade union and workers' organisations include European wide groups and Member States specific labour associations.
- 1.7 The other group is made up of individual responses, other Associations, a law firm, the Air Transport Users Council and freight integrators.

## Summary of responses by question

### Additions to the Directive

#### Subcontracting Governing Rules (Your Voice Question 4)

*No framework or regulation for subcontracting is provided in the Directive and stakeholders reported that it is unclear in which circumstances it is allowed.*

*The need for keeping clear responsibilities for the provision of groundhandling services is a key issue, as pointed out by all stakeholders. In that perspective, some stakeholders have suggested a limitation to one level of subcontracting. Other proposals include imposing full liability to the contractor or prohibiting subcontracting for sensitive or central groundhandling tasks.*

*It was also raised that subcontracting would need to be transparent, notably to allow appropriate reservation of space and to ensure that the subcontractor is duly authorised to operate at the airport (i.e., where appropriate, approved and/or selected through tender).*

*Question: Do you think specific rules regarding subcontracting would need to be introduced, for part or all groundhandling activities? If so, what should these rules contain? Please specify the advantages and disadvantages of your suggestions, as well as their economic, social and environmental impacts.*

- 1.8 **Member States:** The majority of Member State respondents agree that sub-contractors should have standard conditions which they should meet to ensure the quality and standards of provision is maintained. Italy has already implemented a certification process nationally. Belgium suggested that sub-contracting of self-handlers should not be allowed and Poland said there should not be more than one level of sub-contracting. The UK did not want to see any restriction on sub-contracting but that there must be clear responsibilities and accountability. The regional governments had a mix of views with one proposing rules on sub-contracting, one to limit sub-contracting and the other to require formal authorisation. Two of the Member State respondents expressed concern that specific rules would discourage competition and innovation between ground handlers.
- 1.9 **Airline Associations:** All Airline Associations believed the license holder should ensure safety standards and is held liable for services provided by sub-contractors. Concern was raised by some associations about restricting sub-contracting as this would constrain groundhandling activities. Executive Flyers Aviation suggest limiting sub-contractors to a maximum of 2, not allowing more than 2/3s of a companies' activities to be sub-contracted and no sub-contracting of sensitive services.
- 1.10 **Airlines:** Most airline respondents do not believe that there needs to be specific rules regarding subcontracting. However, many agree that general guidelines should be developed. Suggestions were that the liability for the sub-contractor should lie with the approval process, activities involving sub-contracting should be transparent and that sensitive activities such as those related to safety and security should not be allowed to be sub-contracted out.
- 1.11 **Airport Associations:** One Airport Association raised concern with the use of sub-contractors in the groundhandling industry as it may have a negative effect on prices and workers conditions. Another did not oppose the introduction of rules for sub-contracting,

but that these should be uniform for all groundhandling activities and the ultimate responsibility should always lie with the contractor. Finally, ACI believe sub-contracting is integral to the groundhandling industry, but by allowing those that self-handle to sub-contract reduces market opportunities. Therefore there was concern from the Airport Associations about the use of sub-contractors and the effect it has on the industry, but no direct suggestions for any rules that may govern this activity.

- 1.12 **Airports:** The majority of airports supported more control over sub-contracting to reduce multi-layer sub-contracting and to ensure that activities are transparent for all customers. Many of the airport respondents agree that general rules for subcontracting should be created at the Directive level, and specific rules left to be defined at the airport level such as security, safety and environmental impacts. It was also suggested that some activities such as using sub-contractors for restricted services, would increase the number of groundhandlers needing high level security access which would increase the security risk and therefore some activities should be exempt from subcontracting. One Airport did not see sub-contracting as an important issue and thought introducing measures for this may create additional market distortions.
- 1.13 **Handling Companies' Associations:** IAHA proposed that self-handlers must not be allowed to sub-contract as it would reduce the contestable market and that when sub-contracting occurs the main contractor should always remain fully liable for the services provided. ASEATA proposed that activities must be undertaken by the selected contractor's staff and not sub-contracted to other companies.
- 1.14 **Handling Companies:** In agreement with the airports and their associations, most ground handlers companies agree that there should be common rules on sub-contracting in the Directive. They believe that sub-contractors should follow the same rules as the main contractor, by meeting safety and security standards and that their activities should be transparent. Their view is that subcontracting should not be allowed by self-handlers.
- 1.15 **Trade Unions and Workers' representatives:** all oppose allowing the practice of sub-contracting as it creates a lack of consistency and integrity across the different ground handling companies. This, they believe, results in a range of working environments for their staff. In that context, the trade unions advocate restrictions on subcontracting and some suggest that subcontracting is banned within the Directive.
- 1.16 **Other:** There were only a small number of responses from the associations/non-governmental organisations to this question. One agreed with the introduction of specific rules whilst another was opposed saying there should be no subcontracting rules at the Directive level and they should be based on arrangements between the airport and ground handler. A further respondent suggested that controls to ensure safety and security standards are met by sub-contractors are introduced.

In conclusion, the majority of the stakeholders saw a benefit from introducing measures regarding sub-contracting in the ground handling market to the Directive concerning liability and what activities can be sub-contracted. However, some airlines and groundhandlers did not believe specific rules or regulation was needed. The practice of sub-contracting was questioned, and opposed, with regards to its affect on workers, but the vast majority of organisations saw it as necessary for market operations. A number of respondents suggested that sub-contracting of self-handling should not be allowed under the Directive.

### **Quality Measures (Your Voice Question 5)**

*There are currently no minimum requirements in the Directive in terms of quality of service (in terms of training of staff, quality controls, environment protection, respect of safety and security rules)*

*If quality measures were to be introduced possible solutions include:*

- I** *Minimum training requirements*
- I** *Quality standards in the selection process*
- I** *Key performance indicators to be defined locally (by the airport or an independent authority)*
- I** *Individual staff qualifications (licensing)*
- I** *Company licensing*

*Question: what would be the advantages and disadvantages of these solutions (or a combination of these or any other tools that you might propose? Please specify the economic, environmental and social impacts of your suggestions.*

- 1.17 **Member States:** Respondents were broadly in favour of the introduction of quality standards as a way to guarantee and enforce standards. Italy and France already have their own quality regulation and this includes for Italy company certification, staff training, quality standards, and minimum airport compliance. Hungary highlighted standard professional requirements and Belgium the licensing of qualified staff as specific measures that should be included in any quality standards. Poland agreed with standards being developed, but was unsure who should be deciding these standards. Germany, Bulgaria and the UK suggested that these would be established between groundhandlers and their customers. Bulgaria suggested that these would be included in Service Level Agreements and the UK said that a framework could be provided on the EU level, but the specific quality measures would be defined at the local level. All the regional government stakeholders were against the establishment of EU standards arguing that there is already sufficient regulation and any further requirements should be defined at the airport level.
- 1.18 **Airline associations:** All Airline Associations were in agreement that there needed to be no further EU regulation of quality standards as these should form part of the agreement between airlines and their groundhandlers and that industry standards have already been developed through the IATA Safety Audit for Ground Operations program (ISAGO). Any safety and security standards are set internationally and nationally so no further regulation from the Directive is needed.

- 1.19 **Airlines:** The majority of airlines did not favour the introduction of quality standards for ground handlers within the Directive. The two main arguments for this were that quality standards should be negotiated between the ground handler and their customer (the airline) and that the audits that IATA undertakes of their ground handling rules and regulations (ISAGO audits) are sufficient. Those airlines in favour of the introduction of quality standards argued that these would increase control and harmonisation of ground handling activities across Member States.
- 1.20 **Airport Associations:** ACI believe that even if the final level of service has to be agreed between the client and the groundhandler, the EU should provide minimum standards for different types of airports to ensure the efficient operation of airports, especially regarding the minimum training requirements of staff. Another Association believed that it would be useful to have staff training, safety and security standards defined under the Directive, however another Association did not believe any changes were needed as minimum standards could be introduced under the current Directive.
- 1.21 **Airports:** Individual airport respondents expressed mixed views about the introduction of specific quality standards. Those in favour suggested that the introduction of general, not specific rules for quality standards would be sufficient as these could be tailored to the individual airport in which the ground handler was operating. Many were in favour of standards of safety and staff training and thought quality standards would improve the service that was provided by ground handlers. Those who did not support the introduction of quality standards stated that airports or the airline customers are better placed to define their own standards with the groundhandling company and that there is already regulation that is applicable to quality standards from IATA. Other airports suggested that any further standards imposed by the Directive would restrict market competition. Therefore, the majority of airports are in favour of quality rules defined and monitored at airport level.
- 1.22 **Handling Companies' Associations:** ASEATA supports the inclusion of the following requirements in the Directive to allow uniform, quality handling to be provided at in all EU airports: staff training and qualification, quality parameters, provision of handling to third parties and self-handling. This would have a consequence of increasing compliance cost but would improve the quality of security parameters and the accident rate. IAHA state that quality standards are contractual agreements between airlines and groundhandlers and any stronger enforcement role of quality standards could cause conflicts of interest and distort further competition. The current Directive allows for selection or approval processes so quality standards can be introduced through this method if deemed necessary.
- 1.23 **Handling Companies:** The individual handling company respondents generally agreed that quality standards should be introduced for safety and training qualifications, however, the Commission needs to ensure they will be applicable across all situations in which ground handlers operate e.g. large and small airports. The independent handlers expressed that they are against a stronger enforcement role of airports as it would increase conflicts of interest in case airports are handlers themselves. A minority of handlers argued that the standards should be agreed between the groundhandling company and their customers and that IATA's regulation is sufficient.
- 1.24 **Trade Unions and Workers' representatives:** All were in favour of the introduction of quality standards to ensure that safety and training is a focus of groundhandling companies so that a safe and efficient service is provided for customers. They suggest to include a

specification of the amount of training needed for defined tasks, skill refresh timetables, recognised qualifications and minimum wages.

- 1.25 **Other:** Other respondents expressed mixed opinions about the introduction of quality standards for ground handlers with some suggesting that users should define standards and that there was already EU-wide regulation regarding safety etc. from IATA. One said that due to the large number of complaints received from passengers by its members, there should be quality guidelines within the Directive. However, the law firm respondent stated that quality standards were not necessary and that quality had increased since the introduction of the Directive. One individual argued that a separate Directive was needed for the training of staff as this was one area of deterioration since the introduction of the Directive.

In summary, there is broad agreement for the introduction of training, safety and security standards within the Directive. The arguments against the introduction of quality standards into the Directive centred on these standards being defined in the contract between ground handlers and airlines or that the standards that are already enforced by IATA are sufficient. There were suggestions that the EU should provide a framework for quality measures or provide overall initial approval, but the specific measures should be defined and approved at a local level, others believed that EU wide standards would allow for transparency and fairness and finally there were arguments that standards could be introduced through the current Directive if necessary but that any EU wide standards were unnecessary as there were already sufficient standards at national and international levels.

#### **Working Conditions and the Transfer of Staff (Your Voice Questions 6 & 7)**

*The Directive allows Member States to take measures to ensure the protection of the rights of workers. The measures for the protection of workers may therefore be different from one Member State to another, depending on the national systems in place regarding protection of workers.*

*The issue of transfer of staff is a particular issue in this context. Directive 2001/23/EC safeguarding the rights of employees in the event of transfers of undertakings is applicable (notably) to the groundhandling sector. However, there have been cases where "transfers" in the groundhandling sectors were considered as being beyond the scope of protection already safeguarded by this Directive.*

*Question: What would be the advantages and disadvantages of introducing specific measures regarding transfer of staff in the groundhandling Directive for the cases which could fall beyond Directive 2001/23? Please specify economic, social and environmental impacts.*

*Question: What other measures would you suggest to improve working conditions in the groundhandling sector? Please specify the advantages and disadvantages of your suggestions, as well as their economic, social and environmental impacts.*

- 1.26 **Member States:** The Polish respondent did not see the need to introduce Directive-specific regulation about staff transfer as it was covered at the National level. However, several Member State respondents including the Italian, French and Spanish respondents were in favour of further worker protection with companies having an obligation to take over staff, as it would improve working conditions. German, Belgian and Bulgarian respondents



presented the advantages of staff transfer measures as creating better social protection, ensuring adequate pay, supporting better qualification and motivation of the staff, but that there may be drawbacks such as the interference in entrepreneurial freedom and a possible contradiction with ECJ decision C-386/03 of 14 July 2005 of this measure. One government stakeholder suggested that more regulation was needed at an EU Directive level as Member States had previously needed to remove worker protection in line with the EU's liberalisation policies and a regional government stakeholder agreed a Europe wide standard was necessary.

- 1.27 Some of the Member States suggested other measures to improve the working conditions of staff. Belgium suggested qualified staff certification would help to protect staff and that safety and security measures could be improved. Germany were in favour of supplementary regulation to require a service provider or self-handler to take over staff in accordance with the groundhandling services transferred from the previous provider and that any intervention to maintain social standards and provide adequate pay for staff would be advantageous. France recommended the mandatory implementation of a dialogue structure between employers and employees specific to each groundhandling company to deal with occupational issues. Spain proposed a collective agreement for the handling sector that guarantees the rights of the employees which they implemented nationally in 2005. One of the regional respondents suggested a European standard for employment protection and employee rights and another proposed a requirement in the Directive for staff to use mechanical aids for loading to reduce accidents at work.
- 1.28 **Airline Associations:** IATA and AEA believe that staff transfer is out of scope of the Directive and that any regulation should be introduced through national regulation. IATA highlighted that any national legislation introduced must not jeopardise the Directive's other objectives. Other airline associations argued that further liberalisation of the market would ensure social protection.
- 1.29 **Airlines:** In response to introducing specific regulation on the transfer of staff and other measures to improve working conditions in the groundhandling sector, the majority of individual airline respondents believe that these issues are out of the scope of the Directive and should continue to be dealt with within National and existing EU regulations. Two airline stakeholders suggested that staff transfer could be linked to business transfer and one thought better training would improve working conditions. Others believe that introducing training standards would reduce the ability of new workers to gain jobs in the groundhandling sector and that by reducing the amount of regulation in this area working conditions are likely to improve as competition would increase and encourage innovation between groundhandling organisations.
- 1.30 **Airport Associations:** ACI and the Association of German Civil Airports agree that clarification on staff transfer should be introduced to safeguard working conditions and job security for staff. Minimum training requirements, working conditions and pay need to be defined to ensure there is not a 'race to the bottom' in the competitive market. One other airport association did not think the Directive needed to include specific worker rights as this is covered by existing national rules and other EU Directives.
- 1.31 **Airports:** A number of individual airport respondents mentioned that the current national and EU regulations are adequate to protect staff in all industries and there should be no special provision for the Groundhandling sector. The arguments in favour of staff transfer regulation suggested that it would increase consistency of the quality of provision across Member States, encourage skill development and would increase job security for workers.

However, one airport respondent highlighted that this would contradict their national policy and therefore it would be hard to enforce alongside differing national legislations. The airport respondents did suggest a large number of other measures to improve working conditions, these included: formal qualification for training in certain groundhandling roles, minimum wage standards across the EU and investment in mechanisation. A number of concerns were raised with introducing standards, which included a restriction on free market operation, the applicability of measures to all situations covered under the Directive and the costs associated with introducing any measure reducing investment elsewhere.

- 1.32 **Handling Companies' Associations:** ASEATA believe that the transfer of staff should be guaranteed between companies to maintain job stability and quality, and that airport space must be guaranteed for groundhandlers to ensure working conditions to be maintained. IAHA argue that clarification is needed in staff transfer as whether the company is sold or taken over will affect the rights that the employees will have.
- 1.33 **Handling Companies** came to no consensus on whether specific groundhandling staff transfer regulation should be introduced. Some proposed that introduction would improve social peace, help retain staff, improve working conditions and foster full harmonisation across the EU and avoid dismissal fees in some countries. The main argument against specific measures for staff transfer is that worker protection is covered by member state's own laws and existing EU law so is not something that the Directive should provide a separate regulation of. However, one handler noted that the current uncertain situation is a limit to competition. Suggestions of other measures to improve working conditions were: when an airport grants a right for a ground handler to operate it should ensure that adequate facilities are available for the groundhandling company to operate (for example dressing room facilities, office space, apron space etc), working conditions should be monitored across the EU, luggage weights should be lowered and equipment requirements introduced.
- 1.34 **Trade unions and workers' organisations:** All workers organisations agree that the transfer of staff is an important issue and one where workers' jobs need to be protected. Many workers respondents agree that additional clauses and wording in the Directive is necessary. However, one said that the need for staff by new companies ensures that staff transfer anyway and another highlighted the importance of ensuring that any regulation in the Directive does not contradict the National and EU legislation in place. There were a number of suggestions for improving the working conditions for groundhandling staff, these included: standards of equipment and security of workers, shift length restrictions, minimum turnaround times, minimum number of workers per aircraft, luggage weight restrictions, a complete ban on sub-contracting, a requirement for companies to have collective representation of employees, wage standards and minimum training of staff.
- 1.35 **Other:** Only one independent association supported the introduction of staff transfer measures, but suggested that this should be done on a case by case basis. All other associations believed existing legislation is sufficient. One individual felt strongly that staff protection is needed to ensure stability in the groundhandling labour market with the introduction of minimum requirements for staff per aeroplane, stopover time requirements etc.

In conclusion, the majority of trade unions and workers' organisations and a part of the airports and Member State stakeholders agree that specific amendments to the groundhandling legislation to address working conditions and transfer of staff are required.

Proposed amendments in that respects were to provide minimum wages, adequate training provision, social protection, minimum staff provision for activities. The majority of all other respondents opposed such amendments arguing that existing National and EU legislation already deal with social protection and transfer of undertakings sufficiently and that groundhandling specific rules had in some cases the potential to contradict or conflict with national legislation. There is current uncertainty in when the current regulation is applicable, for example when companies are taken over as opposed to their right to operate expires and a new company takes over. Overall further regulation and clarity was deemed necessary, whether through the Directive or other legislation.

### **Representation of Airlines (Your Voice Question 8)**

*Under the current directive, airport users have no obligation to be represented physically at European airports they serve. Most of the time, an airline, if it is not present at the airport, contracts with a groundhandling agent (presumably groundhandlers in charge of ground administration and supervision - groundhandling category 1) in order for this groundhandler to coordinate between the various groundhandling activities, and to represent the airline at the airport. However, such representative, when it exists, is often not known by the passengers, which results in passengers sometimes having difficulties to find the relevant interlocutor (for instance in case of mishandled baggage or any other setback at an airport involving an airline or its groundhandling agents). The same kind of issue is apparently encountered by some Member States which reported that they could not always find a representative of the airline legally accountable for the airline (in particular for financial commitments, slots...) or legally accountable in front of the Courts and the airport authority.*

**Question: What would be the advantages and disadvantages of obliging airport users to be present or to be legally represented by a groundhandler? Please specify the economic, social and environmental impacts.**

- 1.36 **Member States:** Most Member State respondents agreed that airline representation would be advantageous for passengers, but Poland, Sweden and Bulgaria all stated this would lead to increased costs. Poland did not think that representation was necessary at each airport and Germany did not see this issue as a common problem; Hungary agreed that a presence at each airport was not necessary as long as the airline has a presence in every Member State in which it operates. Italy, France, UK, Spain and Sweden argued that there were advantages for passengers if they were delayed, lost their baggage and for general safety and security if an airline representative was available. The UK also said this would be advantageous to regulatory authorities as it was sometimes difficult to locate a legally accountable representative. France and Bulgaria raised concerns if the airline was represented by a groundhandler and one regional government stakeholder suggested that as a result the airline may become less responsible for the activities at that airport. Sweden suggested that representation only be compulsory in the case of regular scheduled services.
- 1.37 **Airline Associations:** EFA supported airline representation at airports through a legally accountable body. Most other airline associations argued that it is unrealistic to expect representation by airlines at all airports, but that groundhandlers acting on their behalf would not be a credible alternative as they would be unable to fully take on this task as many areas would be out of their scope such as financial commitments and slots.

- 1.38 **Airlines:** The majority of individual airline respondents do not believe that it is feasible or necessary to have an airline representative at every airport from which the airline operates because it would be too costly. In their opinion, the reasons why representation might be needed were out of the scope of the Groundhandling Directive. Some airline respondents believed that an airline could be legally represented by a groundhandler, whilst others argued this was not the case. One solution suggested by a few airline respondents was that a toll free telephone number could be provided at every airport to an airline representative.
- 1.39 **Airport Associations:** One association argued that airline's airport representation has never been a problem for airports. Another stated that they are not opposed to this idea, but that if a groundhandler represents an airline that the groundhandling company has the necessary contract to fully and legally represent the airline.
- 1.40 **Airports:** A variety of opinions were presented by individual airports as to whether an airline must have a representative at every airport in which it operates. Some argue it is unnecessary as there are other procedures in place such as Lost and Found Desks and that this representation would add unnecessary extra levels of management to the airport. Some believe it is necessary to have airline representation to improve the general running of the airport and to ensure that emergency situations are dealt with adequately. The remaining airport stakeholders were happy for airlines to be represented by their groundhandlers as long as they have legal powers to make decisions on behalf of the airline.
- 1.41 **Handling Companies' Associations:** There is agreement amongst the handling companies' associations that an airline presence is necessary to ensure passenger rights are fulfilled in the event of incidents such as delays, cancellations, overbooking etc. If the groundhandler represents the airline then the legal responsibility and liability must be clear.
- 1.42 **Handling Companies:** The majority of individual groundhandler respondents agree that an airline should be represented at the airports in which they operate and that it would be sufficient for that representative to be from the airline's groundhandling company as long as they have the appropriate jurisdiction to legally represent the airline. Some groundhandling companies raised concern that the groundhandler could not be given this legal power and therefore the airline needed to be present at all airports.
- 1.43 **Trade unions and workers' organisations:** There was only one response with one trade union argued that the airlines can be represented by their groundhandlers so long as there is airline representation as well, increasing quality and jobs.
- 1.44 **Other:** These stakeholders were all concerned about the ability of the passenger to find a representative to ask for assistance. It was argued that this does not need to be an airline representative, but someone accountable at the airport, however they need the authority to take local decisions. Again it was pointed out by a number of stakeholders that this issue of representation was beyond the scope of the Directive.

In conclusion, there was only minimal support from stakeholders for requiring airlines to be present at each airport. Many stakeholders felt these obligations could be passed on to the groundhandling agent representing the airline. However, independent ground handlers identified legal difficulties with such an approach. Those opposing the requirement for airlines being present at each airport recognised that this would increase costs. Those in favour described the benefits for passengers if they were delayed, lost

their baggage and for general safety and security of an airline presence. Moreover, it was mentioned that groundhandling agents would not be able to cover all the airline's responsibilities.

### **Safety and Security (Your Voice Question 9)**

*On several occasions since the entry into force of the Directive and in particular in a recent study (available at [http://ec.europa.eu/transport/air/studies/doc/airports/2009\\_02\\_ground\\_handling.pdf](http://ec.europa.eu/transport/air/studies/doc/airports/2009_02_ground_handling.pdf)), the Commission investigated the safety and security implications of the Directive 96/67. However, even in this last study which included meetings with all stakeholders, no firm conclusions could be drawn on safety and security issues, in particular for security where no data was provided. The Commission would therefore be interested in having a factual description of situations/case studies where the implementation of the Directive could have lead to safety/security problems.*

**Question:** *Have you encountered safety/security problems which could be linked to the implementation of the Directive? If yes, could you precisely describe such problems and their link to the Directive?*

- 1.45 **Member States:** France, Poland and Spain have not experienced any significant safety and security issues since the introduction of the Directive. However, Belgium, Italy, UK and Bulgaria state there has been an increase in incidents on the apron and that further regulation and certification is necessary as inexperienced staff are being employed creating problems such as incorrectly loaded planes. Sweden, Italy and Germany suggest that, with an increase in companies and staff operating airside, identification has become an issue increasing security concerns. In the UK the CAA are examining introducing language qualifications as they believe staff difficulties in language comprehension is increasing the number of accidents.
- 1.46 **Airline Associations:** The majority of associations did not see any link between safety concerns and the introduction of the Directive. IATA supported the introduction of Safety Management Systems, but ERA believes that there should not be any additional legislation with regards to the Groundhandling Directive as it may duplicate or contradict existing legislation.
- 1.47 **Airlines:** The majority of individual airlines do not see a link between the introduction of the Directive and any deterioration in safety and security standards. A small number of individual airline respondents suggested that there should be more comprehensive reporting of incidents and the introduction of Safety Management Systems would be preferable, however, the majority did not see this as within the Directive's scope. It was also outlined that the list of groundhandling activities does not include document checks at gates though this activity must be performed by groundhandlers and the surveillance of baggage (baggage reconciliation) mail and aircraft which can be the responsibility of different groundhandling organisations.
- 1.48 **Airport Associations:** Associations agree that since the introduction of the Directive there has been a reduction in quality and an increase in minor incidents with outdated equipment being used, a reduction in worker supervision and an increase in different workers needing access to secure areas causing security concerns.

- 1.49 **Airports:** The individual airport respondents highlighted three main safety and security problems that have been created since the introduction of the Directive: short term contracts and high turnover of staff have meant that staff qualifications and experience have deteriorated affecting the safety and security of passengers; the larger number of organisations and different staff operating at an airport has also increased the number of security checks and passes needed causing a detrimental effect on security measures; and finally there are concerns about the number of people and equipment operating on apron space increasing the chance of accidents. One airport group suggested a formula to determine the number of groundhandlers that should be allowed at an airport depending on the facilities available
- 1.50 **Handling Companies' Associations:** IAHA highlighted safety and security concerns since the introduction of the Directive as there was increased congestion and quicker turnaround times. The time taken to gain security passes for personnel had also increased and was now considered too long. ASEATA argued that third party handling agents and self-handling should be restricted based on capacity.
- 1.51 **Handling Companies:** The main concern of individual handling company respondents was the safety of ramps and aprons with an increased number of groundhandlers since liberalisation. Over half of respondents mentioned this problem whilst others mentioned that there were already specific procedures in place to ensure the safe operation of airports.
- 1.52 **Trade unions and worker organisations:** All highlighted the lack of investment that short-term groundhandlers invest in their equipment and training, putting their staff's training at risk. There is also concern over lost luggage as more organisations are involved in the process, reducing transparency and responsibility. Finally, the increase in the number of workers involved in groundhandling increases concerns of ramp safety and airside security.
- 1.53 **Other:** stakeholders raised concerns with the staff training and that staff were given responsibilities above their level due to staff shortages at some airports since the introduction of the Directive. The independent associations agree that more transparency of incidents is needed and assurances that goods and passengers of different security levels are kept separate.

In summary, the main concerns raised by stakeholders with regards to safety and security are those of ramp overcrowding increasing the chance of accidents, a reduction in investment in staff and equipment leading to poorly trained staff and inadequate equipment being used and a reduction in security standards at airports as more people are given access to the airside of airports. Independent reporting on the level of accidents, better management of ramp congestion and oversight of the provision of individual security passes were key recommendations from the responses.

## **Clarifications to the Directive**

### **Tender Process - Length of a contract when tendered (Your Voice Question 10)**

*In the case where the number of groundhandling providers is limited, the selection of suppliers shall take place according to a tender procedure. The main issues which were identified by stakeholders as requiring clarification include: the length of period for a contract when*

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*tendered and the evaluation of tenders, in particular regarding the role of the Airport User Committee (AUC).*

*The directive currently sets to maximum 7 years the length of period of a contract when tendered. This period is considered by some stakeholders as too short for significant investment in personnel and equipment. However, there is a trend in the industry to rely more and more on rents for expensive equipment.*

*Question: What would be for you the advantages and disadvantages of extending tender contracts to a different period of time such as 10 years? Please specify the economic, social and environmental impacts.*

- 1.54 **Member States:** The Member State Respondents were broadly in favour of extending the tender contract period to 10 years as it will encourage investment and will reduce administration costs for government bodies, but concern was raised by Belgium, Bulgaria and Spain that it may reduce quality and competition. Poland suggests that the length of contract should be specific to the groundhandling activity. Whilst France and Italy both argue for shortened contract lengths to allow airport development and the opportunities for new entrants to enter. The regional governments were all in favour of an increase in contract length to reduce administration costs and promote investment.
- 1.55 **Airline Associations:** The airline associations were largely happy with the length of contract at 7 years, but would not oppose an extension as this would allow better planning and more investment to be made. IATA and ABBA did not oppose the extension but asked that exit clauses be included for bad service quality provision.
- 1.56 **Airlines:** The majority of individual airline respondents believe that the tender contracts at airports should be increased from 7 years with many suggesting 10 years as an alternative. They argue that this will increase investment in equipment and allow for better planning by the groundhandling service provider. A number of stakeholders stated that if the length was increased then it would be necessary to have exit clauses within groundhandling contracts and that the length of contract should be in line with other service providers at the airport. The main arguments against this increase were that a minimum number of years should be introduced, not a maximum, so that the market could be further liberalised or that there was no problem with the current 7 year period.
- 1.57 **Airport Associations:** ACI are in favour of a longer contract period as it will create a more stable environment encouraging investment. They also point out it will reduce the administrative burden reducing the tender procedures to conduct. ADV argued that the current 7 years was an appropriate timescale.
- 1.58 **Airports:** Most individual airport respondents thought that extending the contract period from 7 to 10 years would be an advantage as it would encourage investment in equipment, create a stable environment in the groundhandling market for staff recruitment and future planning and help to reduce costs as groundhandlers' capital expenditure will be over a longer period. Concern was raised that this extension would reduce efficiency and quality as the groundhandling market would become less responsive to the overall air market and flexibility would be curtailed. One airport did not have a preference on the length of contract, but was concerned that however longer the tender, the ability to remove a groundhandling provider due to poor performance was necessary.
- 1.59 **Handling Companies' Associations:** IAHA argue that the 7 year contract should be the minimum contract term to allow the necessary investment in human resources,



equipment, building a customer portfolio etc and ASEATA were in favour of the extension to 10 years to improve social stability and Research & Development investment.

- 1.60 **Handling Companies:** The majority of individual groundhandling company respondents were in favour of the increased contract period as it will allow groundhandling companies to recoup investments, reduce costs, bring fairer competition with airports providing groundhandling services, and increase stability. One handling company respondent stated that GSE is expensive and has got an average depreciation period of 9.3 years. Another suggested that licenses should not all have the same maturity date, but a 10 year license available every 5 years to allow equipment transfer. The two independent groundhandling stakeholders who did not support an extension of the contract period did not see an advantage in any extension.
- 1.61 **Trade unions and worker organisations:** All agreed that extending the contract length would be advantageous by increasing stability in the sector.
- 1.62 **Other:** The independent associations were not so concerned with the length of contract, but raised two concerns with tender contracts: that the ability to withdraw them during the contract period is necessary and that there should be no restriction in a fully liberalised market.

In summary, the extension of the tender contract period from 7 to 10 years appears to have broad agreement from all stakeholders with many seeing the advantages of increased investment, stability and lower costs. Many of those not in favour do not see a problem with the current situation or believe that there should not be a limit at all. One concern mentioned by a number of stakeholders was the need to have exit clauses in place particularly for poorly performing groundhandling companies to lose their right to provide groundhandling services.

**Tender Process - Evaluation of tender and Airport User Committee (AUC) (Your Voice Question 11)**

*The Airport User Committee (AUC) has a consultative role with respect to the tender process in the current Directive. It shall be consulted for technical specifications and standards in the tender, and for the selection of suppliers. However, at present, there is no obligation to justify why the Committee's recommendation is not followed, even in those cases where this recommendation is unanimous.*

*At the same time, with the current composition of the AUC, some members may have a conflict of interests, as they can be at the same time groundhandling suppliers and airport users.*

*Question: What would you suggest to ensure that airport users' preference is better taken into account in the selection process, which at the same time would not result in conflicts of interest? Please specify the economic, social and environmental impacts.*

- 1.63 **Member States:** Bulgaria and Belgium argue for greater clarity in the Directive about who should be included in the Airport Users' Committee and how they should operate. Germany, Bulgaria and the UK all argue that the AUC should be able to advise the airport operator, but that its view should not be binding. However, any decision in conflict to the AUC's recommendation must be fully justified. Belgium also suggested the introduction of an independent economic regulator to oversee the operation of AUCs at EU airports to



ensure consistency. Most of the regional governments and Poland were happy with the way that AUC currently operates.

- 1.64 **Airline Associations:** EFA argue that a user definition is needed and that the voting power should be controlled to ensure that no user has more than 40% of the votes. AEA and IATA argue that the AUC's decision needs to take more prominence in the decision making process and voting power should reflect market share. Justification of decisions not in agreement with the AUC's recommendation was seen as important by the other Associations.
- 1.65 **Airlines:** Individual airline respondents argued that the Airport Users' Committee should have a prominent role in the selection of groundhandlers to operate at an airport. They believe that the users are the most important party in this decision as they will be using the service, their opinion should be decisive and any decision on the contrary to this should be justified. There were concerns about how to define and represent the users with suggestions of market shares, air traffic etc. Also it was highlighted that strict separation of airline representation is needed if they also are involved in groundhandling activities. One stakeholder not in favour to any change in the AUC argued that the role of the AUC should remain the same as its current role and another argued that an independent body should decide which groundhandling agents should operate at an airport with input at every stage of the decision making process from airport users.
- 1.66 **Airport Associations:** ACI argue that the role of the AUC must remain as a purely consultative one, but that any decision not to follow its recommendation must be justified. All associations were concerned with gaining a fair representation of the airport users within the committee.
- 1.67 **Airports:** There was broad agreement amongst individual airport respondents that the current role of the AUC is satisfactory. Many were wary of giving users more power as there are often conflicts of interest and airport operators opinions are important for the decision making process, not just the users (airports notably argue that they are best placed to represent the "general interest" in the use of airport space). It was suggested that better feedback and reporting on decisions is the best option for increasing confidence in the decision making process and the use of the AUC.
- 1.68 **Handling Companies' Associations:** They argue that it is not the AUC that is important but that any decision making process is transparent, objective and public and in line with EU procurement principles. This would guarantee that more factors than just price were taken into account, e.g. social and environmental criteria, which are often focussed on by users.
- 1.69 **Handling Companies:** There is broad disagreement from the handling companies for giving the AUC more power as there is a worry about conflict of interest amongst the users. It is agreed that the users' views should be heard, but they should not be decisive as other factors are important. The introduction of an independent public body was suggested.
- 1.70 **Trade Unions and Worker's Representatives** were broadly happy with the current AUC, but two suggested worker representation should be guaranteed at the AUC.
- 1.71 **Other:** The independent associations supported more transparency in the decision making process with the AUC taking as many different opinions into account as possible.

In conclusion, the vast majority of the stakeholders except airlines are comfortable with the present constitution and role of the AUC. However, airlines believe much greater user representation is needed and voting rights must be further defined to avoid conflicts of interest. Some stakeholders asked for greater transparency of decision-making processes and decisions made by the AUC. A number of stakeholders asked that when the AUC's recommendation is not followed a full and transparent justification should be provided.

**Selection of self-handling providers (Your Voice Question 12)**

*The number of self-handling providers for airside services can be limited pursuant to article 7 of the Directive. However, no mechanism is proposed in the Directive to select the self-handling providers authorised to carry-out self-handling, in contrast to third-party handling providers who have to be selected through tender. Such a mechanism could rely on criteria to be defined.*

*Question: In the cases where the number of self-handling groundhandlers is limited, what would be the advantages and disadvantages of introducing a mechanism to select self-handling providers, such as the definition of criteria? Please specify the economic, social and environmental impacts.*

- 1.72 **Member States:** Most Member State respondents agree with the introduction of criteria for self-handling airlines, with Belgium and the regional governments suggesting that it should be the same as for other groundhandlers, but Bulgaria, UK, Spain and Hungary simply placing importance on having clear and transparent procedures that unify existing rules across Member States. Poland is supportive of any guidelines to reduce misunderstandings surrounding the issue of selection of self-handlers.
- 1.73 **Airline Associations:** There is opposition to the introduction of any criteria to limit the ability of an airline to self-handle from airline associations, if they are capable they should be allowed to operate. Many argue that self-handling only occurs in limited cases in the market so this intervention to determine criteria is unnecessary. AEA and IATA argue that if there is any exceptional constraint then this should be able to be resolved in the individual airport through consultation with the AUC.
- 1.74 **Airlines:** They were strongly opposed to any restrictions on the ability of airlines to self-handle. Many felt that in the few exceptional circumstances where self-handling was restricted under the existing Directive, for example for physical space constraints should be resolved through discussions between the airport and airlines. A small number of individual airline stakeholders argued that self-handling could also be restricted on the grounds of market share.
- 1.75 **Airport Associations:** ACI suggested that as self-handlers are generally chosen on the amount traffic they handle at the airport and this is subject to fluctuations. To ensure stability the rights to self-handle should be provided for a specified period of time and aligned with the duration of the third party contracts. Another association suggested limiting the occupation areas within the airport and having binding quality criteria for self-handlers.
- 1.76 **Airports:** The majority of airports believed that the fairest way to chose self-handlers is through the same criteria as independent groundhandlers, however many did not believe

that the restriction of self-handlers was currently a problem. Some suggested that selection criteria be based on the volume of traffic at airports.

- 1.77 **Handling Companies' Associations:** ASEATA suggests that criteria could be created based on quality, training etc which are comparable to third party groundhandlers. IAHA agree that the same service level and access conditions as other handling suppliers should be introduced.
- 1.78 **Handling companies:** All individual handling companies believe that airlines should have to meet the same criteria as independent handlers in order to operate at an airport. This is to ensure that equipment and space is available to all groundhandlers and there is a fair and transparent system for allocating licenses at airports.
- 1.79 **Trade unions and workers organisations:** The workers representative respondents do not see the practice of self-handling needing regulation. However, one suggested that any airline self-handling should have to perform to a minimum frequency of operation if they were given approval to provide ground handling services.
- 1.80 **Other:** The European Express Association argued that no limit be placed on self-handling and that the market should decide the number of airlines who wish to self-handle.

In conclusion, the majority of airlines and their associations opposed any restriction on self handling. Member State respondents and most airport respondents, as well as all independent handling respondents suggested that self handling airlines should have to meet the same criteria as independent ground handling agents. Many respondents suggested that congestion on the ramp could be a reason for restrictions on self handling, with the hub and largest airline users given first preference for self handling rights.

#### **Charges to Access/use airport installations (Your Voice Questions 13 and 14)**

*The Directive does not rule out the possibility that access to airport installations may be subject to a fee. Case C363/01 clarified that the fee to access installations can be of an amount "which takes account of the interest [of the managing body of the installations] in making profit". However, there is no agreement on what can be charged including a reasonable "profit margin" and to what level.*

*Question: What would be the advantages and disadvantages of defining more precisely elements to be taken into account for assessing a fee and its "reasonable profit margin" part for the access to airports installations?*

*Question: What would be the advantages and disadvantages of an independent authority being in charge of monitoring airport installations' fees/charges (including for centralized infrastructures' fees and charges), similarly to what exists for airport charges in Directive 2009/12? Please specify the economic, social and environmental impacts.*

- 1.81 **Member States:** All Member State respondents were in favour of transparent and defensible fees being charged by airports. However, Germany and France mentioned how these should already be covered in the Charges Directive. They all agreed with the principles of an independent regulator as this would increase transparency and monitoring of airport charges and ensure that monopolistic situations are not abused. Hungary, Belgium, Germany and Poland mentioned concerns about the administrative and financial cost of setting up any regulator. The UK and the regional governments stated that the

current system was sufficient and Spain and France stated that they did not have these charges.

- 1.82 **Airline Associations:** Bravo Delta Foxtrot (German airline Association) BDF, AEA and ABBA believe that charges should be based on the principles of the Airport Charges Directive. ERA believes there needs to be greater oversight and transparency of charges and an independent regulator would help reduce discrepancies between approaches. Other associations are in favour of the setting up of an independent regulator.
- 1.83 **Airlines:** The individual airline respondents believe that there should be defined criteria for charges for airport installations. Many suggested that these criteria should be in line with the Airport Charges Directive ensuring that they are transparent, cost efficient, cost-related and introduced through consultation with airport users. One airline suggested that there should be no access fees. Most were happy with cost recovery charges as long as there were assurances that airports were not abusing their monopoly position as infrastructure provider with the level of these charges. The majority of airlines supported the introduction of an independent regulatory body as they would resolve any appeals or disputes, ensure there are not discrepancies across airports and regulate prices against costs, as they would be fully independent and could settle specific airport disputes. Those who were not supportive of an independent regulatory body were individual airlines who did not see the need for further regulation in this area, or they already had something similar set up in the airports in which they operate. One stakeholder suggested that all EU regulated airport fees should be consolidated within one piece of legislation.
- 1.84 **Airport Associations:** All the airport associations do not agree that the definition of the access charges needs to be improved as they believe it provides an appropriate framework against which to set the airport charges. The introduction of an independent regulator was seen as an unnecessary cost burden and any charges should already fall within the remit of Directive 2009/12.
- 1.85 **Airports:** Most individual airport respondents do not believe that further defined charging mechanisms are needed as either the ones in place at the moment are satisfactory and national and EU regulation cover anything else or it would be impossible to produce EU relevant definitions of profit margin and cost recovery. Many airports agree that the charges should be open to challenge from users and that consultation is helpful, but that changes to the Directive are not necessary. The majority of individual airport respondents did not see the advantage in an independent regulatory authority being set up as there are often already authorities that are able to regulate prices in Member States and another regulator will add more bureaucracy to the system. This introduction will also be likely to increase costs to groundhandlers through increased administration costs and would reduce the market liberalisation that has so far occurred. The advantages mentioned were ones of transparency and visibility to customers.
- 1.86 **Handling Companies' Associations:** The handling company associations were in favour of airports having to justify the airport charges to ensure they are transparent and objective. The idea of setting up an independent regulator was seen favourably, but there were concerns that this would lead to extra cost burdens.
- 1.87 **Handling companies:** All individual handling company respondents agree that airport charges should be transparent and justified objectively, with all airport users being charged the same, not just groundhandlers. Some handlers suggest that there should be no separate charge for centralised infrastructure use. Most handling companies and their

associations agree with an independent regulator being set up to monitor airport infrastructure charges as it would increase transparency, monitoring and is necessary to resolve any disputes. There were some concerns as to whether an independent regulator was necessary as it may over regulate the industry and whether it would have appropriate powers to intervene in the case of a complaint.

- 1.88 **Trade unions and workers organisations:** All organisations believe that the airport's charges for installations should be monitored and restricted.
- 1.89 **Other:** The law firm respondent mentioned the European Court of Justice ruling C363/01 which states that the airport can only charge for the use of installations, however, they suggest that this needs further definition of what can be charged for this access. The independent regulator was seen favourably, but one stakeholder pointed out that the Directive provides for appeal to an independent body so any additional need for a regulator may be redundant.

In conclusion, most airline stakeholders and independent ground handlers support the introduction of access to airport installations charges criteria and independent regulator. However, independent ground handlers warn against over regulation of an independent regulator. Airports opposed such an introduction and felt that in many cases national regulatory procedures already provided users protections. Most stakeholders called for greater transparency of the basis of charges for airport installations. Concern was raised about the additional costs of independent regulation of these issues.

#### **Separation of Accounts (Your Voice Questions 15 & 16)**

*The implementation of the separation of accounts obligation was raised by stakeholders as needing clarification. The methods to ensure the effective implementation of accounting separation are indeed not specified in the Directive. In the current Directive, separation of accounts between their groundhandling activity and their other activities is required of all groundhandling providers, whether they are airports, airport users or groundhandling suppliers.*

*The issue also exists of who is the "independent examiner" in charge of checking that this separation of account is effectively carried out for all groundhandling providers. This independent examiner shall also check that airports do not cross-subsidise between their activities as groundhandler and as managing body. The question arises as to what transparency requirements shall be expected regarding these verifications.*

*Question: Should more precision on the separation of accounts be given? If so, which stakeholders should be covered by this requirement, what should be the rules and which methods should be used to ensure effective implementation of the accounting separation requirement? Please specify the economic, social and environmental impacts*

*Question: What would you suggest to introduce more precisions about the independent examiner's checks? Should there be a compulsory and regular publication of the effective auditing of the accounts? Should the independent examiner's reports (or part of them) be available publicly? Please specify the economic, social and environmental impacts*

- 1.90 **Member States:** Most Member State respondents believe that the current Directive is sufficient in its guidelines on the separation on accounts. However, France, Hungary and

Bulgaria believe this could be extended to make the guidelines clearer to ensure there is no cross-financing. Poland was concerned about the administrative burden and cost of any further interventions. Most Member State respondents believe the independent examiner's role is necessary and Belgium suggests that checks through auditing are sufficient.

- 1.91 **Airline Associations:** The associations agreed that the transparency and separation of accounts may not be sufficient with more provision needed. EFA and IATA supported the creation of separate legal entities, whereas AEA suggested this would not be necessary so long as there was a detailed breakdown of accounts and an external auditor could be used for this purpose.
- 1.92 **Airlines:** The individual airline respondents are all in agreement that more precision should be given on the guidance for the separation of accounts to ensure that the process is transparent and fair. There was no agreement amongst individual airline stakeholders as to whether companies should have to create separate legal entities to perform their groundhandling activities, with some believing that this is unnecessary if the separation of accounts is enforced sufficiently, whereas others believe the more separation the better the system will be. The majority thought that airports should be the only operators needing this separation, but one mentioned that it should also be applicable to airlines that self-handle. A couple of airlines suggested the regular publication of results from the audit or at least part of the examiner's report, however there were concerns amongst respondents of the extra costs this may create.
- 1.93 **Airport Associations:** Two airport associations argue that no changes to the rules are necessary, but that it is up to Member States to better enforce the rules and this is where there may be deficiencies with the process. ACI suggested that the requirements be clarified so that the prohibition to cross-subsidize refers only to purely aeronautical revenues (charges) for which the airport is acting as an authority.
- 1.94 **Airports:** Most individual airport respondents do not see the need to further specify the separation of accounts requirements arguing that current arrangements are sufficient. Many airports felt that the publication of results was unnecessary and had no practical use, but one stakeholder pointed out that publishing the results would improve other stakeholders' perception of the effectiveness of the current regulation. A number also suggested that this separation should be applicable to all groundhandlers, including airlines that self-handle.
- 1.95 **Handling Companies' Associations:** ASEATA do not believe any amendment is needed, however IAHA believe airports need to legally unbundle and publish separate accounts.
- 1.96 **Handling Companies:** The individual handling company respondents generally agree that more precise rules on the separation of accounts are needed, with some saying they should be applicable for all multi-functional companies, but other stating it was only applicable to airports. The majority agree that the Independent Auditor's audits should always be published. One handling company was concerned that publication may cause problems as the results may not be interpreted correctly.
- 1.97 **Trade unions and worker representatives:** They state that the separation of accounts should be transparent and fair and overseen by an independent examiner with the results publicly available.

- 1.98 **Other:** The independent associations all agreed that transparent separation of accounts is needed.

In conclusion, greater clarity of the requirements for separation of accounts was supported by the majority of airlines and their associations, trade unions and workers' representatives and independent handlers. Airports and the majority of government stakeholders did not believe this was necessary. There was concern from airports and government stakeholders about the administrative costs of introducing greater regulation. Most respondents did not believe it was necessary to make accounts publicly available. However, trade unions and most independent handlers supported full transparency.

**Airport groundhandlers and selection procedure (Your Voice Question 17)**

*Airports have the right with the Directive to provide groundhandling services without having to be selected through tender. This features is also valid for the undertakings controlled by the airport (or controlling the airport) such as airport's subsidiaries, and a trend could be observed in the recent years for airports to set up subsidiaries specialized in groundhandling. Such subsidiaries can compete today on the groundhandling markets at several airports.*

*A number of stakeholders raised that this situation leads to competition distortion, as it gives a clear advantage to the "airport groundhandler" when compared to its competitors.*

*Airports on the other hand raised that the right for airports to keep a groundhandling activity can be motivated by public service interest reasons.*

*Apart from this debate, it could be questioned whether the current criterion of "control" by the airport (or control of the airport) is still relevant nowadays in view of the privatisation of airports. Airports could indeed today "control" (or could be "controlled" by) other groundhandling suppliers (such as major airlines at "hubs"); this could lead to situations where several suppliers are exempt from the selection procedure.*

**Question: What would be for you the advantages and disadvantages of making it compulsory for airports and/or for the airports subsidiaries to pass a tender procedure? Please specify economic, social and environmental impacts**

- 1.99 **Member States:** The Member State respondents gave mixed views with some of them (Belgium, Hungary, Bulgaria, Spain) seeing the airport involved in the tender procedure as necessary to require equal conditions in the market and transparency. Others including Sweden, Germany, France, Poland, the UK and the regional governments were in disagreement as the airports supply expertise to market that would be lost if they went through the tender process and that airports were at no advantage without going through the tender process as they are fixed in one place so have not got the flexibility of other groundhandling organisations.

- 1.100 **Airline Associations:** All airline associations were in agreement that airports should undergo the same tender procedures as other groundhandling operators. IATA argues that there is no justification for favouring airports and the associations argue this will allow a level playing field and reduce market distortions. ABBA supports the provision of no tender procedures for any groundhandling operators to allow the market to determine entrants, but until full liberalisation was possible airports must undergo the same procedures as all other companies wishing to provide groundhandling services.

- 1.101 **Airlines:** All individual airline respondents agree that airports should be subject to the same tender procedures as all other groundhandlers so that there is a fair and balanced procedure and to help control the number of groundhandlers
- 1.102 **Airport Associations:** The associations argue that it is the airport's obligation to provide a groundhandling service and therefore they should not go through the same tender procedures. One association agreed that if the airport groundhandler was going to step in as a groundhandler and another party was interested then a tender procedure could be justified, but a compulsory tender would be unfair.
- 1.103 **Airports:** The individual airport respondents expressed strong views against airports being subject to the same tender procedures as other groundhandlers as they were not in the same position as independent handlers. The airports argued that they have to provide the service if there is market failure, that their long-term expertise would be lost if they were unable to operate and that they are in a differing position to independent groundhandlers as they would be unable to change location if they were denied. It was also stated that in other sectors, Courts and legislators created a special right for the infrastructure provider. Those airports happy to undergo tender procedures argued that it would create a level playing field.
- 1.104 **Groundhandling Companies' Associations:** The groundhandling company associations are all in agreement that it should be necessary for airports to follow the same tender procedures as other handling operators as it will avoid the distortion of competition and create a level playing field for all members of the groundhandling market.
- 1.105 **Groundhandling Companies:** There is broad agreement amongst individual groundhandling company respondents for airports to undergo the same tender procedure as other groundhandlers to create a freedom of choice, an open markets and fair competition. Without this, one stakeholder argued that competition is distorted: with airports not having the risk of losing their access to the market to operate. Those not in favour, suggested that with the airports undergoing a tender procedure there would be a lack of continuity of services provision and that other rules such as the separation of accounts were sufficient for regulating airport groundhandling operation.
- 1.106 **Trade unions and worker representatives:** Most workers representatives were not supportive of the airports undergoing the same tender procedures as other groundhandling organisations as it may threaten jobs as airport groundhandling jobs may transfer between organisations.
- 1.107 **Other:** Some independent associations argue that to ensure standards then airports must go through the same tender procedure, whilst one argues they should not be put in direct competition with other large groundhandling organisations as they are only able to operate at one airport.



In summary, airline stakeholders and most independent groundhandlers supported airport (and their subsidiaries) ground handlers should be subject to tender procedures as this would provide a more competitive market and ensure a common set of standards. Most airports and trade unions opposed such procedures and warned against losing long-developed expertise, and did not have the opportunity to change location like independent handlers. Government stakeholder responses were split between these two views.

**Space constraints and their impact on the constraint on competition (Your voice Question 18 & 19)**

*Competition can be influenced depending on how the use of apron space for groundhandling activities is managed. There is also no framework to manage allocation of space when physically limited, in particular when the market is fully open.*

*Airports have limited ground space available so that even if the market is fully open, a time can come when a new groundhandler cannot be accommodated. Groundhandling operators need space for equipment storage and staff. Even where ground equipment is rented, it has to be present at the airport, and the level of equipment is determined by the level necessary to service the airport at peak periods. In addition, space allocated to a groundhandling company might be more or less advantageous when compared to the location of operations.*

*For airports with a limited number of operators, the number of authorised handlers can in theory be fixed at the "appropriate" number of handlers. However, even in the ideal case where the number of handlers perfectly fits the space allocated, the "value" of the premises allocated may differ from one handler to another.*

*For airports with no limitation in number (fully opened market for airside activities), the issue arises of what happens when the market is saturated and when there would be more groundhandling undertakings interested in operating at the airport than there would be premises readily available. Due to the limited space available at airports, building new premises may indeed not be possible (or may only be possible on a long-term period when compared to the market timescale). Possible solutions proposed so far for this situation include:*

- I Auctioning of airport premises ;**
- I "first arrived, first served" option (new entrants have to wait that a premise is made available);**
- I Definitions of minimum criteria which have to be met by a new entrant to obtain premises (expected market share, number of staff or equipment).**

**Question: What should be the best way to manage space for groundhandling activities at airports and ensure fair competition?**

**Question: In the case of fully opened markets for airside activities, what would be the advantages and disadvantages of the solutions proposed (or any other solution you might propose)? Please specify the economic, social and environmental impacts**

**1.108 Member State:** The Member State respondents produced a mix of suggestions for managing space constraints. Belgium, Bulgaria, France and the regional governments were all

opposed to the introduction of auctions as this would favour those groundhandlers in the strongest financial position. France and the regional governments suggested the use of a 'first come first served' allocation and Italy and Spain favoured a criteria based approach. Belgium supported a consultation with stakeholders and Germany, Poland, Sweden and the UK supported giving airports the power to decide the allocation of space. Hungary suggested assessing individual space requirements of companies when assigning space and Germany thought that a pool of equipment may help alleviate problems, however there may be problems co-ordinating needs and demand peaks.

- 1.109 **Airline Associations:** The airline associations were in favour of case by case solutions to space allocation problems with associations such as EFA suggesting the use of the AUC. IATA, AEA, BDF and ABBA were strongly opposed to the use of auctions as this would push up prices for airlines. ERA suggested the pooling of equipment and BDF said it was the responsibility of the airport to provide more space.
- 1.110 **Airlines:** The individual airline respondents suggested space should be allocated through consultation with the stakeholders involved and it may be necessary to limit the number of groundhandlers having access to the airport to ensure there is adequate space for groundhandlers. There was also support for space allocation criteria. Other suggestions to resolve space disputes included airports being required to increase capacity and space being allocated on the basis of operative capacity. A large number of airlines objected to space been allocated by auction as this would push up prices and create large barriers to entry for new market entrants.
- 1.111 **Airport Associations:** One airport association suggested that airports should be looked at on a case by case basis, as if there is a shortage of space this can result in increased costs as transportation of equipment is required from space allocated to aircraft stand. Others believed that space should be allocated by the market and if there is a capacity constraint then individual intervention should be allowed.
- 1.112 **Airport:** Individual airport respondents contributed a mix of opinions of the best solution to the allocation of space. A number proposed that the first come, first served solution was preferable because it was in line with the rental conditions that already operate at the airport. There was also support for consultation to allocate space as each airport where the local situation is different. However, consultation with stakeholders every time groundhandling operators change would not be workable. Some suggested a permit scheme for vehicles as often space was taken up by unused equipment. Criteria based on activity were popular and again there were strong views against the auctioning of space. The airports believed that a solution to the problem of lack of space at airports was an issue that needed clarification in the Directive to enable transparency and fairness across airports and situations, to ensure prices did not rise and to reduce the need to invest in further space provision.
- 1.113 **Groundhandling Companies' Associations:** The groundhandling Associations agree that access should be granted based on capacity and once the capacity is reached it should be allocated depending on market share or seniority of the company, but it should always be allocated based on transparent and objective criteria.
- 1.114 **Groundhandling companies:** All ground handling company respondents were against the idea of auctioning. Instead they were in favour of space allocation based on the level of groundhandling activity, along with airports having to provide extra capacity and space allocation through consultation with stakeholders. Other ideas included the use of an

independent authority to regulate space allocation, pooling of equipment, airports deciding the allocation of space and historical allocation. The advantages for controlling the allocation of space included guaranteeing safety at the airport as well as ensuring there was capacity for future market entrants. It was suggested by one groundhandler that guidelines for space allocation be included in the Directive which left airports some ability to adapt to their specific situation.

- 1.115 **Trade unions and worker representatives:** The trade unions agreed that space should be allocated by the airport as if the market is fully open this will cause negative consequences on security and profitability.
- 1.116 **Other:** One independent association was against the use of auctioning, but suggested that airports could rent out machinery to groundhandlers, creating a central pool of equipment. Another believed that the current system of first come, first served in their Member State works effectively, but that consultation is necessary with users if there is any change to installations. Complete liberalisation was also suggested with any controls once capacity is reached being agreed by the AUC.

In summary, there were a large number of suggestions for better managing space for groundhandling activities. Most stakeholders opposed the use of auctions for space allocation. Some suggested, 'first come - first served', historic rights, use of an independent authority, pooling of equipment to save space, and requirement for airports to increase ramp space if it was congested.

## Simplification of the Directive

### *Groundhandling Market Regulation and full opening of the airside market (Your Voice Questions 20 & 21)*

*With the Directive, access to groundhandling services was open to competition; such a liberalization was introduced at airports considered big enough to accommodate in a sustainable manner at least 2 competitors (i.e. airports over the threshold of 2 million passengers or 50 000 tons of freight a year). However, in contrast to landside groundhandling services, the Directive left for airside groundhandling services the possibility (chosen by certain Member States) to limit the number of suppliers and self-handlers to a number to be defined by Member States (in the national measures of transpositions of the Directive) and/or by the airport or an independent authority. This possibility conducted to introduce compulsory tender procedure to ensure transparency and non-discrimination in the selection of the providers.*

*As a result, EU groundhandling market is today a mosaic of different national markets, with different numbers of minimum suppliers (some Member States limiting the number of airside providers to 2 for all airside categories while others chose 2, 3 or 4 depending on the categories, sometimes at the same airport), different conditions to access the market (free access/tender procedure or existence/absence of national approval procedure). Some stakeholders therefore raised the issue that the EU groundhandling market is complex and that disparities between national markets make it difficult for new comers to enter a new market. It could thus be questioned if, in the framework of a possible revision of the directive, simplification and enhanced harmonization would not be desirable.*

*This leads to consider the issue of what would need to be harmonized in the EU groundhandling market.*

*In this context, a specific option of further harmonization of the groundhandling market could be to require complete opening of the market for all EU airports, removing the current possible limitations in the number of airside groundhandling providers. It would indeed ensure that, throughout Europe, groundhandlers can enter anytime the market of any airport (above a certain threshold).*

*Question: What would be for you the advantages and disadvantages of harmonizing the European groundhandling market? Which specific aspects would you suggest to harmonize? Please specify the advantages and disadvantages of your suggestions as well as their economic, social and environmental impacts.*

*Question: What would be for you the advantages and disadvantages of a full opening of the market (for airports above a given threshold)? Please specify economic, social and environmental impacts.*

- 1.117 **Member States:** There are mixed views amongst the Member States respondents to the further harmonisation of the groundhandling market as well as its further liberalisation. The advantages of harmonisation included to ensure a common regulatory framework, however, the UK, France, Germany and the regional governments believe that the current Directive is sufficient, but it may need improved application and enforcement. The majority of the government stakeholders could see the attractiveness of market opening, however, many had reservations about how applicable it would be at all airports and its effect on safety and quality standards. Proposals for further harmonisation included compulsory approval procedure, basic staff requirement, basic quality requirement, self handling definition, thresholds of the directive depending on the free existing/expected market, and no limitation of the number of self-handling airlines except for capacity and safety reasons.
- 1.118 **Airline Associations:** BDV and AEA argue that the current lack of harmonisation is leading to market distortions and unfair competition, with AEA, BDV and ABBA arguing that a full harmonisation of the market could be achieved through full liberalisation. IATA argue for no maximum number of groundhandlers, but for a harmonised minimum for the market to be liberalised as much as possible. If the market is not liberalised then AEA and BDV suggest stepped thresholds could be applied for 3 and 4 groundhandlers when over 10 million and 20 million passengers. IATA also argues that fuel service regulation be harmonised.
- 1.119 **Airlines:** Around half of the individual airline respondents were in favour of further harmonization of the market, but keeping the current system of a minimum number of groundhandlers at airports, as this would increase transparency across the EU of the requirements of groundhandlers and help to maintain a similar standard across all Member States. The suggestion was made to address what is considered as the major flaw of the current Directive and which is the discretion of Member States regarding the number of suppliers, which does not have to be justified. The remainder believe that if there is going to be increased harmonisation this should not be done via the current system, but should go straight to full liberalisation. Many who saw the advantage of harmonising the current system also supported full liberalisation.
- 1.120 **Airport Associations:** The airport associations argue that further harmonisation is not necessary and that there is not a single solution to the thresholds across Europe, but they

should be determined by individual airports depending on their capacity and constraints. ADV also see the complete opening up of the market may have negative consequences on quality and costs. ACI add that social protection of staff and safety and security will suffer with full liberalisation.

- 1.121 **Airports:** The individual airport respondents were not in favour of further harmonisation of the EU groundhandling market arguing that the current Directive was sufficient in giving guidance regarding the minimum number of groundhandlers. They argue that the further harmonisation would be over ambitious and unnecessary and would be difficult to introduce because of the varying situations across the EU. Instead focus should be placed on implementing the current Directive fully in all Member States. Proposals for harmonisation included subcontracting, harmonised insurance sums and risk areas to be insured, approval of groundhandlers including self-handling airlines, selection of suppliers. The full opening of the market was not seen as favourable with airports losing control of the number of groundhandlers at their airport and worries raised about safety, social stability, quality and congestion. A minority of airports were in favour of full market liberalisation arguing it would increase efficiency and decrease costs to customers.
- 1.122 **Groundhandling Companies' Associations:** ASEATA argued that there needs to be harmonisation of staff training, quality requirements, self-handling definition and thresholds for groundhandlers and that by opening up the market this would not be possible. IAHA support the case for better harmonisation but not full liberalisation to allow economically and undistorted competition.
- 1.123 **Groundhandling Companies:** The majority of individual groundhandler respondents believe that harmonisation of the groundhandling market is advantageous to ensure standards are the same across the EU and support open, fair and non discriminatory competition. However, a minority believe that the current Directive is sufficient, but that it needs to be better enforced and that Member States should take a lead in this. There was broad disagreement with the suggestion to open the market fully with handling companies arguing that it would favour the financially strong players, affect safety and security standards, decrease quality and would not be advisable for all airports.
- 1.124 **Trade unions and workers representations:** They were in favour of further harmonisation of all areas of the Groundhandling market as they believe it will aid in the harmonisation of working standards across the EU, for example staff qualifications and social legislation. They were all against the full liberalisation of the groundhandling industry as it would encourage competition on all standards including worker conditions.
- 1.125 **Other:** One other stakeholder suggested the EU should consider introducing a Regulation rather than a Directive to unify national rules and ensure harmonisation across the EU and another promoted full market opening to promote the efficient allocation of resources and maximise the benefits to consumers. The independent associations were in favour of more harmonisation of the groundhandling market across the EU as this would reduce protectionism and aid simplification. They were also in favour of full market liberalisation as it would increase quality and efficiency. However, one stakeholder stated that the Directive should be implemented fully across all Member States before harmonisation occurred.

In conclusion, around half airline respondents supported greater harmonisation and full liberalisation of the groundhandling market. The majority of airports did not support greater harmonisation or liberalisation. The majority of independent handlers supported

greater harmonisation but not full liberalisation as it would favour the larger groundhandling operators. Member States and trade unions supported harmonisation. However, trade unions opposed greater liberalisation because of the potential negative social impacts and most Government stakeholders were concerned about the number of airports that would benefit from such a change and the potentially negative social and safety side-effects.

**Threshold level for application of Directive and case of oscillation around the threshold (Your Voice Question 22 & 23)**

*Some stakeholders reported that annual fixed levels cause problems for airports oscillating around that threshold. To avoid that problem, a mechanism could be envisaged whereby the airport has to fall above the threshold for 3 consecutive years in order to be subject to the relevant provisions of the Directive.*

*In addition, in the case where the system of a minimum number of groundhandling providers for airside services would be kept, the question of introducing additional thresholds was raised. Indeed, even if the minimum number of groundhandling providers which are sustainable at an airport depends on many factors (such as the type of traffic of the airport, whether the airport is a hub or not, etc.), the Directive makes it possible at the moment that, all else being equal, an airport with 3 million passengers has to accommodate the same number of minimum providers as an airport with more than 50 million passengers (Member States can indeed limit to 2 the number of suppliers for these airports). Some stakeholders therefore proposed, in order to avoid that the number of groundhandling providers could be underestimated at very big airports, to increase the number of minimum suppliers for these very big airports to at least 3 or 4, depending on the airport's size. This would be possible by introducing additional thresholds such as (threshold levels are only illustrative): minimum 3 groundhandling providers for each airside category at airports with a traffic over 30 million passengers or 100 000 tons of freight; minimum 4 providers at airports with a traffic over 60 million passengers or 250 000 tons of freight.*

*Question: What would be for you the advantages and disadvantages of the proposed mechanism (or any other mechanism that you might propose) to avoid airports oscillating around the threshold? Please specify the economic, social and environment impacts.*

*Question: What would be the advantages and disadvantages of introducing additional thresholds for the minimum number of groundhandlers for very big airports? What threshold(s) would you suggest? Please specify economic, social and environment impacts.*

1.126 **Member States:** There was agreement from all Member State respondents for the introduction of a longer term view of airport activity to determine whether an airport is above the Directive threshold. Sweden said that this would ensure that infrastructure investment was worthwhile and necessary and that there was sufficient demand for any groundhandler entering the market. A regional government questioned the relationship between the freight and passenger thresholds and argued a 30 million passenger airport could not be compared to a 250,000 tonnes of cargo one. Whether there is a need for more thresholds met a mixed reception with Poland arguing it would be preferable as currently 3 million and 50 million passenger airports are treated the same. However, France, Bulgaria and Belgium see it as unnecessary and raised concerns as to whether additional groundhandlers could be accommodated at airports without a detrimental

effect on safety, security and congestion. Hungary raised questions over how different terminals are treated at an airport and if one could need more groundhandlers than another at the same airport.

- 1.127 **Airline Associations:** Most airline associations thought the Directive should be applicable to all airports, but if a traffic threshold is used then a 3 year period is acceptable. IACA and BDF suggested lowering the minimum threshold to 200,000 passengers. EFA also supported a multi-threshold approach with free access at the largest threshold with agreement from the AUC. AEA and BDF believe there should be objective criteria to restrict the number of groundhandlers as BDF say it is often for political reasons. IATA argues that fuel facilities should be open access.
- 1.128 **Airlines:** The majority of individual airline respondents were in favour of an airport being subject to the Directive once it reached a certain threshold. They agreed that long term trend in passengers or freight was needed to remove the difficulties with the current drafting of the Directive. Suggested criteria included 3 consecutive years below the threshold or 2 consecutive years or 5 years out of 10. There were calls from some airlines for the Directive to be applicable at airports regardless of their size and to remove the minimum number of suppliers. Thresholds based on the number of passengers were also not seen as sufficient with some airline stakeholders arguing other factors were important such as having an adequate number of providers for the business models of airlines demanding the services. One major concern raised by two airline stakeholders was how to reduce suppliers if the airport fell below the threshold with one suggestion that those with the highest market share keeping their access to the market. Other concerns included what would happen if the minimum number of service providers could not be found if the business opportunity was not attractive at the airport and whether additional thresholds were politically achievable.
- 1.129 **Airport Associations:** Most airport associations were happy for a longer term view of traffic to be used to decide whether the Directive was applicable, however, one thought it was unnecessary as the problems of lack of space, cost increases, industrial relations will still exist. ACI proposed that the size of the contestable market should be the deciding factor for any increase in the number of groundhandlers in the market.
- 1.130 **Airports:** About half individual airport respondents were in favour of a longer term definition of passenger numbers to determine the threshold whether the Directive was applicable to an airport as this would aid planning and would ignore any annual fluctuations. One stakeholder also suggested the introduction of a recurrence principle for the number of years an airport has to be above a threshold. The others were happy with the way the thresholds were enforced at the moment. There were suggestions that there should not be a minimum number of groundhandlers and that the threshold would be based on clear, measurable restrictions with space and the contestable market at the airport should be taken into account. This meant that the few respondents that agreed with additional thresholds felt they should be based on something other than solely passenger and freight traffic. One stakeholder also suggested that the level of freight and passenger traffic that currently takes an airport above the threshold is too low. There were a large number of objections to additional thresholds mainly because they were unnecessary and by forcing the minimum number of groundhandlers to increase it may cause safety concerns at some airports. Concern was also raised as to whether with more groundhandlers in some airports this may erode the commercial opportunity for all groundhandlers (by spreading a small contestable market across more groundhandling



providers). One respondent suggested a sliding scale to determine the minimum number of groundhandlers or the airports deciding the possible number of providers.

- 1.131 **Handling Companies' Associations:** ASEATA believe member states should determine the number of operators at an airport and the thresholds should be for longer than a year.
- 1.132 **Handling Companies:** The majority of handling companies were in favour of a longer more stable view of airports being consistently exceeding the threshold, with average traffic across years and other variables being taken into account. There was some support for more thresholds and minimum numbers of groundhandlers. However, the majority of individual groundhandling company respondents raised concerns of congestion, the size of the contestable market and safety. One respondent suggested the number of ground handlers allowed, at large or very large airports, should be the decision of the Member State.
- 1.133 **Trade unions and workers' representatives:** Many workers' representatives raised concerns about increasing competition at airports being unnecessary as this may introduce instability and insecurity in the market, especially if the market is not sufficiently large to sustain the extra entrants that are introduced. The contestable market and impact of deregulation need to be taken into account before any change to the thresholds is made.
- 1.134 **Other:** One of the independent organisations suggested a better definition for the thresholds, not based solely on passenger numbers.

The majority of stakeholders supported the introduction of a longer-term threshold definition for application of the Directive. Most stakeholders did not support additional thresholds, but some supported the full liberalisation of the market removing all thresholds. Trade unions opposed the introduction of an increase in competition. Defining the size of the "Contestable" market was seen as the most important factor by many stakeholders in determining the number of ground handling companies it could support.

#### **Member States Approval and approval Procedure (Your Voice Questions 24 & 25)**

*Approvals (article 14 of the Directive) are not compulsory but have been widely introduced by Member States. However they differ across Member States (some deliver approvals per category of ground handling activity, others per airports of operations etc.).*

*A refinement of the criteria to obtain an approval could be introduced to limit the divergence of what is required to perform a groundhandling activity. But the criteria could also be changed, and additional criteria, not mentioned in the current directive, introduced. They could include for instance training provisions or quality measures.*

*Question: What would be the advantages and disadvantages to refine the conditions to obtain an approval? Please specify economic, social and environment impacts.*

*Question: What would be the advantages and disadvantages to change the criteria taken into account for approval? How about including training provisions or quality measures? Please specify economic, social and environment impacts.*



- 1.135 **Member States:** The Member State respondents provided a variety of responses with Germany, the UK, France and the regional governments proposing that refinement was not needed and current guidelines were sufficient, whilst Bulgaria and Spain thought that anything to limit divergence between Member States should be supported. Belgium and Spain thought training provisions, safety and security and quality measures should be included in approval processes. Italy and Hungary both stated they have developed their own regulation to guarantee the quality of applications.
- 1.136 **Airline Associations:** IATA propose the use of the IATA Safety Audit for Ground Operations Program by Member States to define their approval criteria, this includes 300+ agreed standards to promote safety, efficiency, training, personnel management etc. ABBA, BDF and AEA proposed that these standards should not be defined by the Member States, but should be in the contract between the two parties (airline and ground handler).
- 1.137 **Airlines:** The majority of individual airline respondents believe that further conditions for groundhandling operators to meet in order to operate in the EU should not be set by the Directive. Instead any details should be decided in consultation between a range of stakeholders, including the users, the providers, the airport and the AUC. A number of respondents believed that current regulation is sufficient and one stakeholder raised concern that any further conditions may incur further costs for groundhandlers.
- 1.138 **Airport Associations:** Most airport associations agreed that there needed to be harmonisation of approvals processes across Member States to improve performance and to allow effective operation of groundhandling activities. This may increase costs but will ensure there is not differing requirements for the same services.
- 1.139 **Airports:** The individual airport respondents believe that there is a need in many Member States for a better harmonisation of the approval procedures. There are mixed views amongst airports and about refining the criteria for approval, with some believing that it would be useful if conditions covered working conditions, quality, training and insurance etc. Others disagreed saying Member States should be free to develop their own local criteria and that the current rules are sufficient. There were other advantages described for increasing the conditions taken into account for approval including these criteria creating unified standards across the EU and removing local inconsistency and subjectivity from the approvals process.
- 1.140 **Handling Companies' Associations:** ASEATA supports the establishment of uniform conditions across all Member States and suggests minimum criteria for training and qualification of workers, quality and security. IAHA disagree saying there is no need to change the current Directive and increase the administrative burden on groundhandlers.
- 1.141 **Handling Companies:** The individual handling companies had mixed views on the approval procedures with 50% believing that there needs to be no change at the Directive level with any changes taken at the Member State level whilst the other half saw the benefit of introducing general criteria to make access uniform across the EU. The criteria supported by most respondents were for training and qualification for workers with them declaring that the standards for this were not currently sufficient. However, one respondent pointed out these criteria could not necessarily be uniform across all types of groundhandlers as they may have very different characteristics.
- 1.142 **Trade unions and worker representatives:** All agreed that training and staff qualifications should all be part of the criteria that groundhandling companies should have to meet to be granted approval to operate in Member States.

- 1.143 **Other:** One stakeholder strongly opposed quality standards as these are difficult to test and may sharpen divisions in groundhandling services if they are judged differently by Member States. The independent associations had differing views with one strongly supporting one approval process for the whole of Europe, another believing criteria should be defined in the service level agreement and a final one supporting the argument that current regulation in this area is sufficient.

In conclusion, there was no consensus across each category of stakeholder on this question. Some stakeholders saw the advantage of greater standardisation of approach across Member States and introducing requirement for training and staff qualifications in approvals procedures. However, around one half of respondents from airlines, airports, government and independent ground handlers did not believe further regulation was required. Airlines felt it should be left to contractual agreements between stakeholders, and a number of other respondents supported the discretion at a Member State level.

## Definitions requiring Clarification

### Self-handling (Your Voice Question 26)

*The principle that carriers have the right to handle their aircraft, referred to as self-handling, is generally acknowledged. However, it has been raised by some stakeholders that the scope of what should be considered as self-handling could be clarified or amended, in particular with respect to industry practices such as wet lease, dry-lease, code-sharing, alliance arrangements.*

**Question:** *What would be the advantages and disadvantages to refine the boundaries of self-handling? Please specify economic, social and environmental impacts.*

- 1.144 **Member States:** Many Member State respondents agreed that the definition in the Directive did need to be clarified especially regarding alliances and Belgium suggested the role of freight integrators needs to be defined. Sweden suggested that the AOC should have a role in controlling self-handling to ensure services are available. Germany, France and Italy were all concerned that by extending the definition it may reduce the contestable market. The UK supported the right for airlines to be free to choose their groundhandler. Spain said it would be useful to harmonise the interpretation about what is covered by self-handling across Europe. Poland said that by defining self-handling better this would reduce misunderstanding.
- 1.145 **Airline Associations:** All the airline associations were in favour of redefining self-handling to include the widest possible definition. This they argued would promote the benefits of economies of scale and lower prices.
- 1.146 **Airlines:** All the individual airline respondents except one were in favour of expanding the definition of self-handling to include code sharing, wet lease, dry lease and alliance partners. The benefits they described included allowing economies of scale, improving quality and greater efficiency through integration. One negative effect mentioned was that airlines may experience a reduction in choice as they have to use a partner's groundhandler.

- 1.147 **Airport Associations:** All the airport association respondents were opposed to extending the definition of self-handling, arguing that this would be against the principles of the free market by reducing the contestable market. They were all satisfied with the current definition.
- 1.148 **Airports:** The individual airport respondents were not in favour of an extension to the definition of self-handling. However, a number were in favour of a clarification to the definition so that it is easier to define those handlers that are operating as self-handlers and to ensure there is a consistent definition across airports and Member States. The arguments against the extension of the definition of self-handling included concern that it would reduce the contestable market open to third party groundhandlers and would reduce market competition as well as enforcement difficulties in defining alliance partners and freight integrators. One stakeholder suggested that an extension to the self handling definition should only be allowed in defined exceptional circumstances.
- 1.149 **Handling Companies' Associations:** The handling company associations were not in favour of any widening of the definition. ASEATA suggested that self-handling must relate to the requesting airline and its subsidiaries and franchise operations. IAHA requests a tightening of the definition of article 2 (f) by stipulating: '...concludes no contract of any description with a third party [for the provision of such services]...'
- 1.150 **Handling Companies:** The respondents from handling companies were not in favour of extending the definition of self-handling as it would reduce the contestable market and may lead to cascading subcontracting processes. There was support for and a suggestion to clarify the definition further to ensure covert self-handling does not occur. There was agreement amongst respondents that self-handlers should need to adhere to the same rules and requirements as third party groundhandlers in order to operate at an airport.
- 1.151 **Trade unions and worker representatives:** All were not in favour of a widening of the definition of self-handling with one suggesting the introduction of approvals for self-handling in the same way as required for third party groundhandlers.
- 1.152 **Other:** One independent association felt that the definition should be widened for self-handling as this would allow further market liberalisation as the airline would only self-handle if it was cost effective. This viewpoint was supported by the law firm that responded to the consultation. Another association was not in favour of this as it will disadvantage the independent groundhandlers.

In summary, most respondents supported an improvement, and greater clarity in the definition of Self-handling in the current Directive. Airlines and their associations supported the widening of the self-handling boundaries to include code sharing, alliance partners, and services provided under dry and wet leases. The airports, independent handlers, governments and trade unions did not support the widening of the self handling market boundary definition, as this would result in a reduction in the size of the contestable market.

**Freight handling (Your Voice Question 27)**

***Freight handling definition has been raised by stakeholders as causing problems: the handling of certain types of air freight (coffins, art work, etc.) usually involves specific actors, which may not be selected freight handlers in the meaning of the Directive as they only operate***

*punctually at the airport. Integrators face similar problems: few handlers are capable to play a part in the specialised process of handling express cargo, and not all handlers are capable of operating at the time integrators require their services, mainly at night. As a consequence, these companies have little choice than to organise their own on-loading or off-loading.*

**Question: What would you suggest to improve the handling of freight? Please specify the advantages and disadvantages of your suggestions, and their economic, social and environmental impacts.**

- 1.153 **Member States:** Most Member State respondents felt the current guidelines were sufficient and that they did not know of any situations where this had been a problem. Hungary suggested separating the treatment of passenger and cargo handling activities in the Directive as this would allow for specialised handlers to provide cargo handling. Sweden states that through its own regulation of the industry it ensures that freight forwarding companies are always available at airports but is unable to influence the prices that they charge customers. Spain suggested the areas of responsibility for cargo handling needed to be defined.
- 1.154 **Airline Associations:** EFA suggested freight handling definitions should be dealt with through consultation with the airport and AUC. AEA argued that freight handlers should be able to handle the flights of all aircraft on their network and liberalisation will help to solve this problem. They highlight that this shows a one size fits all policy on groundhandling is not effective. BDF are concerned that any special treatment of cargo handlers may lead to discrimination and with the blurring of the lines between integrators and general air cargo airlines it may be difficult to decide who should get this special treatment.
- 1.155 **Airlines:** Most respondents from individual airlines were in favour of cargo operators being able to self-handle their own flights. A small number of airline respondents suggested solutions that included handlers being able to deal only in freight and not passenger handling. Additional suggestions, included that groundhandlers need to have clauses built into their contracts at an airport to offer freight handling services between certain times of day and responses in support of complete liberalisation of the freight groundhandling market.
- 1.156 **Airport Associations:** ADV believe freight handling should be reviewed on a case by case basis, but should only be performed by an authorised freight service provider or can be self-handled by those that fly the freight themselves. ASEATA do not support any special treatment as if the service is not being provided a company can enter the market or a cargo company can self-handle. ACI suggests that operators must undergo specific training to operate certain freight.
- 1.157 **Airports:** The individual airport respondents generally agree there is no need to change the definition of freight handling, however, a few did suggest that freight handler's needs should be assessed on an airport by airport basis. It was suggested by a small number of airport respondents that the services that are included in the definition should be clarified and there may need to be certain requirements a groundhandler has to fulfil to carry certain freight for example specific liability insurance.
- 1.158 **Handling Companies' Associations:** One handling association suggested that a fully open market would avoid any freight handling problems and the IAHA was concerned about creating artificial distinction and separate licensing needs. ASEATA thought a clearer definition of responsibilities would be advisable.

- 1.159 **Handling Companies:** Most of the responses from individual handlers companies did not include a response on the issue of freight handling. Of the small number that did respond, they suggested that there should be clearly defined responsibilities for freight handlers and freight integrators. Two respondents suggested that freight handlers should be allowed to transport their own goods so long as they met the same training, safety and insurance criteria as other groundhandlers. Another said that handlers should be allowed to specialise in certain areas of groundhandling.
- 1.160 **Trade unions and worker representatives:** Only two trade union stakeholders responded, one suggesting special measures were not necessary and the other suggesting training and education requirements are needed.
- 1.161 **Other:** The law firm and independent association that answered this question both suggested that the market should be fully liberalised in the area of freight groundhandling operations.

In summary, there were not strong views surrounding the definition of freight handling. Many stakeholders were happy with the current definition, but airlines were in favour of allowing freight handlers to self-handle.

#### **Groundhandling Category 1 (Your Voice Question 28)**

*The Annex of the Directive comprises a wide range of activities. It indeed encompasses administrative tasks as well as "telecommunications", "handling and storage of unit load devices" and "any other supervision". Some Member States mentioned that this definition could be clarified, in particular when it comes to delivering approvals to undertakings falling under this category.*

*Question: What would you suggest in order to clarify or amend the definition of "ground administration and supervision"? Please specify the advantages and disadvantages of your suggestions, as well as their economic, social and environmental impacts.*

- 1.162 **Member States:** A number of Member State respondents suggested that clarifications of this definition were necessary as it was too broad. Italy and Spain suggested moving 1.3 from category one to category four. Spain also suggested 1.2 be moved to four and Hungary thought category one and nine could be combined. France argued that any change in the Directive would mean that national legislation would need to be amended and instead further clarification can be found in the Airport Handling Manual published by IATA. Germany and Belgium did not think any change was necessary. The regional governments did not see this as an issue as at regional airports groundhandling category one is rarely applicable.
- 1.163 **Airline Associations:** There were limited responses to this question with only one comment by EFA about category 1.4 providing sufficient opening to cover needs by user.
- 1.164 **Airlines:** Most individual airlines did not respond to this question. Those that did thought that the definition of Groundhandling category 1 should fall within any contractual arrangement between airlines and handlers. One respondent suggested that physical handling and documentation/administrative handling should be under separate categories within the Directive.

- 1.165 **Airport Associations:** The airport associations did not see any need for the definition to change.
- 1.166 **Airports:** Most individual airport respondents did not believe that any changes should be made to the definition of Groundhandling Category 1. Some suggested ensuring that the definition was consistent with IATA standards 2008 and three airport respondents thought there was some merit in clarifying the definition.
- 1.167 **Handling Companies' Associations:** There was only one suggestion that categories 1.2 and 1.3 be classified in category 4.
- 1.168 **Handling Companies:** Most respondents from handling companies did not believe that any changes were needed to the definition of Groundhandling Category 1. Respondents agreed that the definition should correspond with IATA standards. However, some handling companies raised a concern that this definition needed to be expanded and clarified.
- 1.169 **Trade unions and worker representatives:** The only suggestion from trade unions was that supervision is necessary to ensure handling operators who do not comply with the definition stop their activities.
- 1.170 **Other:** There was a suggestion to bring the definition in line with IATA even though other respondents had previously said the definition is the same. One other respondent suggested that there should be two categories of handling agents, those providing services to airlines and those providing service to the private/business/corporate and general aviation.

In summary, most stakeholders agreed that the definition of Groundhandling Category 1 does not need to change, that it should be in line with IATA standards and that any clarifications or further details can be clarified within these standards not within the Directive.

#### **Centralised Infrastructure (Your Voice Question 29)**

*Centralized infrastructures are not defined explicitly in the Directive, but refer to infrastructures used for the supply of groundhandling services whose complexity, cost or environmental impact does not allow of division or duplication. Usage of these infrastructures can be made compulsory by Member States. It has to be recognized that centralized infrastructures across Europe are of different nature, depending on the airport's location in the European Union. This has significant impacts as the introduction of these infrastructures at an airport reduces the contestable market.*

*In addition, the way in which the managing body of these infrastructures (which can be the airport or "another body") is designated is not clear, as the Directive only states that "Member States may reserve [for this body] the management of the centralized infrastructures". In particular, when it comes to the "reservation" of an installation as "centralized infrastructure", clarifications could be made on the role of the "managing body of the centralized infrastructures", whether it is the airport or not. And in the specific case where the "managing body of the centralized infrastructures" is not the airport, the respective roles of this body and the airport could also be addressed.*

*Question: What would you suggest in order to clarify the concept of Centralized Infrastructures and improve the way these infrastructures are managed? Please specify the*

*advantages and disadvantages of your suggestions, as well as their economic, social and environmental impact.*

- 1.171 **Member States:** There were a mix of views from Member State respondents with some believing the definition of centralised infrastructure was extensive enough whilst others believed elements should be defined further. Bulgaria suggested the core infrastructure to include baggage handling system, passenger boarding bridge, fixed power installations, fuel and oil stations and check-in desks. Hungary believed that if any further clarification was needed then this could be done on a case by case basis. Italy and a regional government asked for management responsibilities of the centralised infrastructure to be defined. Poland suggested publishing the fees and included infrastructure on the internet so that they were transparent.
- 1.172 **Airline Associations:** Most airline association respondents suggested that fees be subject to minimum criteria and legislation should help ensure that airlines are not being charged twice through a fee and an airport charge. IATA suggests the fuel services need greater clarity in the definition. ABBA calls for a more restrictive definition to ensure a fair and transparent access. However, EFA argue this should be done at the individual airport level.
- 1.173 **Airlines:** To improve the management and clarity of the concept of Centralised Infrastructure in the Directive most of the individual airline respondents suggested that criteria should be used to define Centralised Infrastructure and a fair and transparent system of charging mandated. Concern was raised about the situations when the airport provides groundhandling services and also defines Centralised Infrastructure and the charging arrangements. To address this, the amended Directive should require an independent body to be responsible for setting criteria and overseeing charges for Centralised Infrastructure. There was another concern raised by a number of airlines that they should not pay twice for infrastructure through Centralised Infrastructure fees and airport landing charges.
- 1.174 **Airport Associations:** One airport association argued that centralised infrastructure should be further defined at an airport level and another saw this definition as sufficient as Member States can define the infrastructure further. However, the other airport association believed that greater detail in definition will help Member States define centralised infrastructure at airports.
- 1.175 **Airports:** Most airports argue that the current definition of Centralised Infrastructure is sufficient and that it should not be further defined as it needs to be applicable to a variety of airports and conditions. However, a number said the definition would benefit from being more precise and a list of services developed. Most airports believe the definition and control of Centralised Infrastructure should be the responsibility of the airports alone.
- 1.176 **Handling Companies Associations:** One handling company association said that this definition was sufficient and that the Member States should be the one to define centralised infrastructure for their own airports and the criteria for charging. IAHA were concerned that charging is sometimes excessive and distorts competition if different types of handlers pay different rates.
- 1.177 **Handling Companies:** The responses from individual handling companies contained a number of different suggestions for clarifying the approach to Centralised Infrastructure in the Directive. Only one believed that Member States should be the ones to define

centralised infrastructure further. Others thought there should be publication of the content of Centralised Infrastructure in each airport to ensure consistency, transparency and harmonisation across all Member States. There was also the suggestion to introduce an independent regulator to ensure fairness of Centralised Infrastructure charging across the groundhandling industry.

- 1.178 **Trade unions and worker representatives:** There were no suggestions from the trade unions.
- 1.179 **Others:** One association suggested a third party should oversee the definition and charging of centralised infrastructure to ensure competition is not distorted. The regulation of charges was highlighted as an area for concern and it was suggested that minimum, transparent criteria was needed. The law firm respondent suggested that the definition needs to be more restrictive as otherwise the airport is free to define their own centralised infrastructure with no consultation with users.

In summary, stakeholders agreed that the Directive is not clear about which party should define what is included within the definition of Centralised Infrastructure and what charges are acceptable. Further clarification is necessary, but there is a range of opinions as to how this should be done. Airlines and some other respondents supported the introduction of an independent regulator. Airports felt this should be left to them to define. Some independent handlers suggested that publication and therefore transparency of the criteria basis of the fees should be required.

## Other issues

### Other Issues (Your Voice Question 30)

**Question: What are the other issues with the Directive you would like to draw to our attention?**

- 1.180 A number of the respondents highlighted further issues that were not discussed in their specific responses to questions raised in the consultation. These suggestions are summarised below.

#### *Regulation versus Liberalisation*

- 1.181 There was concern raised by a stakeholder as to whether any changes to the Directive would increase the regulatory burden and reduce the opportunity to establish an open market. Its view was that any amendments to the Directive should introduce further market liberalisation.
- 1.182 Two stakeholders proposed that to assist the effective introduction of complete market liberalisation, the EC or States should, at the same time, introduce a requirement for an independent monitoring of the operation of the groundhandling market to ensure that there were no abuses taking place.

#### *Enforcement across all Member States*

- 1.183 Some stakeholders said that before any revision to the Directive is made, the Commission should ensure that the current requirements of the Directive are implemented across all



Member States. Differing approaches to implementation across Member States was a source of significant frustration.

- 1.184 A stakeholder stated that any changes to the Directive should continue to allow for flexibility to local circumstances and be flexible to the size of the company and airport.
- 1.185 Two other stakeholders supported the case for a process for appeals and continuation of an exemption procedure.
- 1.186 One stakeholder suggested a harmonised definition of the cost of groundhandling to be adopted so that there can be a comparison across all airports in the EU.

*Additional suggested changes to the Directive*

- 1.187 A number of stakeholders made suggestions for specific changes to the Directive:
- Offices should not be classified as commercial premises, but as Centralised Infrastructure;
  - Fuel infrastructure should be classified as Centralised Infrastructure under the Directive;
  - Ramp handling for General Aviation should be removed from the Directive;
  - A better definition of the insurance required by groundhandlers should be drafted;
  - Category 8 Groundhandling should be better defined; and
  - Provide guidance when the withdrawal of a groundhandler, at an airport with only two providers, leaves a temporary situation where only a monopoly provider is available. Methods for awarding additional licences, or reserve licences to provide competition in this situation should be made available.

*Reducing market viability*

- 1.188 There is a concern that changes to the self-handling definition in the Directive allied with airline consolidation will significantly reduce the commercial viability of independent providers of groundhandling. As the number of airlines decreases and there is further integration through alliances, code shares etc. it is likely that at airports where there is a major airline or alliance, this will lead to a single groundhandler gaining most of the contestable market. This may in turn result in a monopolistic situation being created. There was a suggestion that all companies offering groundhandling separate should have no association with either the airports (infrastructure provider) or the airlines (the passenger service provider). This would lead to providers focussing on standards and quality.

*Other concerns*

- 1.189 An airport stakeholder raised the concern that poor groundhandling service provision would have adverse impacts on the airport operator's reputation. Therefore, measures should be taken to ensure minimum quality standards were guaranteed for end customers (passengers and freight users).

## ASSESSMENT OF IMPACTS

### Assessment of impacts (Your Voice Question 31)

*The study will assess these potential changes using the Commission's impact assessment framework, in particular identifying:*

- I** Social impacts;
- I** Economic impacts;
- I** Environmental impacts;
- I** Administrative impacts;
- I** Quality impacts;

*The study will also establish if any of these impacts disproportionately affect the Small Medium Enterprises operating in the sector.*

*Question: Could you suggest sources of data and information which might be used by the study team to estimate the impacts of options for changes to the Directive? We would be particularly interested in data and facts covering the impact of the Directive on:*

- I** Changes in profitability of ground handling providers;
- I** Staff wages, levels and contract types;
- I** Staff qualifications and training provisions;
- I** Health and safety of workers;
- I** Staff transfer issues;
- I** Number of providers and length of service of incumbents;
- I** Quality levels in tenders.

**1.190** Some sources of data and information were provided by a minority (less than 20%) of contributors to the consultation (most of the contributors did not respond to this question or responded that they did not know where to obtain such data). A few stakeholders (8%) offered to explain their position and to submit data on a bilateral basis.