ASA Input to
The EC Fitness Check of Airport Regulatory Acquis
Brussels, 6 June 2024

The Airport Services Association (ASA, www.asaworld.aero) would like to make the following comments on the European Commission Fitness Check of the airport regulatory acquis. These comments will be restricted to the Ground Handling Directive (96/67/EC) and will not touch on the Airport Charges Directive (2009/12/EC) nor the Slot Regulation (EU/95/93).

Generally, ASA and its members believe that Dir. 96/67/EC has served its initial purpose quite well and that despite its now close to 30 years of service, continues to be a well-accepted reference in Europe and around the world when it comes to access to the market and to competition in general. Should there be a future (re-)assessment of the Directive, on the model that was proposed in early 2020, the ASA believes that the structure and the principles underlying the text should remain mostly unchanged.

That said, and with almost 30 years of operational experience in hindsight, there are a few aspects that the ASA would like to highlight:

1) There have been considerable changes since 1996 both in terms of air traffic – there was 1.4bn air passengers in the world then, compared to today's 1.2bn passengers in Europe alone. Also, ground handling is, or will shortly become, a regulated activity, by 2028 once the EASA Opinion has been turned into a Regulation in 2025. These two aspects, along with many other secondary ones, have an impact that shouldn't be underestimated on the efficiency of the Directive as the context around has considerably changed.
2) The ASA believes that, beyond the stated objective of ensuring a fair and transparent access to the market to ground handling, any piece of legislation should aim at ensuring a minimum quality of the service provided whilst allowing for a decent margin (and/or an acceptable return on investment) of the service providers. These two principles were merely acknowledged via a few whereas clauses (whereas clause 5 for instance) that lack substantiation.
3) A one-size-fits-all approach may fail to capture the subtlety and nuances of all the airports' differences (in terms of available space, infrastructural constraints, market share, etc.), yet it leaves a wide array of possibilities to airport authorities to limit the number of ground handling companies for reasons that have only little to do with competition. Whilst the ASA is absolutely in favour of a strict application of the principles of the Directive, it is supporting the application of a set of open and transparent criteria to help airport authorities make the right decision when it comes to chose for a limited, or unlimited, number of licences to attribute and for how long.

More specifically, the ASA would like to highlight the following aspects:

- **Efficient use and pricing** of airport capacity and ground handling services: It is crucial to align the utilization and pricing of airport capacity and ground handling services with the operational and market realities of the airport considered. This alignment should aim at enhancing connectivity, foster innovation, and optimize resource allocation to meet market demands as efficiently as possible. There are today airports with over 50m passengers with only two ground handling companies, and airports with barely 2m passengers that insist on keeping an unlimited access to their market. This multiple standard is not only conducive to an uneven playing field and unfair competition for reasons that may be difficult to comprehend, it may also create confusion, uncertainty, and may eventually lead to a race to the bottom.

  To better illustrate the point, in markets with a strongly dominant carrier for instance (i.e. with more than 40% of the local traffic share), the market available to the other ground handler(s) is

consequently quite limited even when the total number of passengers is significantly above 2m. There will hence be a propensity from other ground handling companies to either refrain from entering the market or adopt practices to help drive their costs down, even if this implies "cutting corners" and reneging on what ASA identifies as "minimum operating standards", thereby igniting a race to the bottom between the two or more ground handlers present.

On the other hand, airports that are largely dominated by LCCs generate a wholy different dynamic. In this specific case, passengers are caracterized by a high sensivity to price and a readiness to shift to different stations in case of minimum price variations. Typically, on top of a likely number of LCCs providing their own handling (self handling), the total market share left to the "independent" ground handler(s) will be quite limited. These airports require higher economies of scale for the handlers.

To summarize, there are markets whose specificities make them not attractive to and/or unfit for a second handler, let alone more, even when they reach 2m passengers while some quite sizeable markets remain limited to two handlers. An analysis and mapping of the market, i.e. the number of passengers, the type and profile of operations, etc. should be considered before forcing competition onto a 2m passengers market. On the other hand, the possibilities of restricting to only two ground handling companies for markets of more than 25-30m passengers should be reduced to the bear minimum and be justified in a way that is open and transparent. This is not contrary to what Dir. 96/67/EC advises, but the reality can be quite different.

- **Facilitating adequate competition and ensuring a level playing field:** The aim of the Dir. 96/67/EC is to promote fair competition among airports, airlines, and other service providers to prevent monopolistic practices and ensure a level playing field. As already stated, however, the implementation of the Directive may be problematic; it doesn't always correspond with the reality and must therefore be reconsidered.

  Articles 6 and 7 mention that for 4 categories of ground handling services, namely 1) baggage handling, 2) ramp handling, 3) fuel and oil handling, and 4) freight and mail handling, Member States may limit the number of suppliers. That may need some reconsideration. A similar limitation could for instance also be applied to passenger handling. This would, if applied under the specific and careful conditions specified above, allow the increase of quality and sustainability of the handling services as a whole by allowing handlers to make economies of scope, increase synergies between different services and decrease their cost base to reflect on service prices.

  The duration of the licence is a rather complex argument, and all things considered, the curent period of 7 years may be considered as a fair compromise. However, as stated above, this duration might be reconsidered given the specific profile of the market it is intended to apply to. For instance, in less competitive markets, with only two handling companies at major airports with specific dynamics, the duration of the licence could be reduced to 5 years for instance. In more competitive markets, a duration of 7 years seems to be fair even if this period of time may be insufficient to write off the necessary investment for equipement and working capital. And it might go up to 10 years in highly competitive markets. The point is that, once again, a one-size-fits-all approach might not be an optimum application of the Directive.

- **Transparent and independent oversight:** Transparent and independent oversight mechanisms are vital for ensuring fair and efficient processes in awarding ground handling contracts. Such oversight helps maintain trust and confidence in the regulatory framework and facilitates effective market operation.

Here again though, there are in reality various issues related to the monitoring of airports in case they provide handling services. The yearly publication of open and separate accounts by independent and recognized examiners/auditors should be the norm and shouldn't occur only after a complaint has been lodged by (an)other independent handler(s). Even though it is stated in Art. 4, the reality is that legal actions take time and resources, decisions often come (too) late and may carry the vicious effect of confronting the ground handling company which originated the complaint against the very same authority it is accusing (airport authorities being public most of the time), with potential negative consequences for its future activities in the country. Hence a natural reluctance from independent ground handlers to even consider the legal ways it is entitled to.

- **Adequacy of airport and ground handling services:** Assessing the adequacy of airport and ground handling services involves evaluating various factors, including quantity, quality, reliability, resilience, and investment needs. It is essential to prioritize investments in infrastructure, technology, and workforce development to meet current and future demands while ensuring high standards of service delivery. The relentless pressure on airports, airlines, and ground handling companies to reduce costs has had significant effects on salaries, particularly for ground handling staff, which account for up to 60% on average of the operating costs and of which a significant majority is paid at the lowest legal salary. This pressure on wages contributes to make employment in the sector less attractive, with nefarious consequences on turnover (up to 80% of yearly turnover signalled by several ASA members in Europe and North America post-pandemic, a bit less in other regions), in turn impacting safety and service quality (less experienced and skilled workers available), cost (higher training costs), and operational disruptions at peak time with staff shortages ever more difficult to resolve.

  Imposing certain quality standards by airports may sound like a good initiative, but this should be, as much as possible, done at a European level otherwise ground handlers with various operations throughout the EU will have difficulties to impose different sets of requirements at the airports they operate. Moreover, they should as much as possible be restricted only to safety, financial and environment related aspects. The cost of other service quality standards being passed on to airlines, if airlines do not require these standards, handlers may find themselves in a difficult negotiating position. In general, airports should refrain from imposing standards other than those mentioned above or should impose them directly to airlines, under the pain of creating conflicting requirements, the consequences of which will be mostly borne by ground handlers.

In conclusion, the ASA invites the European Commission to consider these concerns and recommendations in their deliberations on Regulation EU 96/67. Collaborative efforts among industry stakeholders, regulators, and policymakers are crucial to achieving a balanced regulatory framework that promotes sustainable growth, innovation, and competitiveness in the aviation sector.