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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.4.2008
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2006/0130 (COD)

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT**

pursuant to the second subparagraph of Article 251(2) of the EC Treaty

concerning the

**common position adopted by the Council in view of adoption of the Regulation of the
European Parliament and of the Council on common rules for the operation of air
transport services in the Community (recast)**

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(Text with EEA relevance)

1. BACKGROUND

Date on which the proposal was sent to the European Parliament and the Council: (COM(2006) 396 – 2006/0130 (COD))	18 July 2006
Date of the opinion of the European Economic and Social Committee:	31 May 2007
Date of the opinion of the European Parliament, first reading:	11 July 2007
Date of adoption of the common position (by unanimity):	18.4.2008

2. OBJECTIVE OF THE COMMISSION PROPOSAL

On 18 July 2006 the Commission adopted a proposal for a Regulation on common rules for the operation of air transport services in the Community (recast) which will replace Regulations Nos 2407/92, 2408/92 and 2409/92 (generally known as the "third package")¹.

The main points of the proposed recast are as follows:

- (1) **Reinforcement of the requirements for the granting and revoking of an operating licence:**
- (2) **Strengthening the requirements for the leasing of aircraft:**
- (3) **Clarification of the rules applicable to public service obligations (PSO):** these rules have been revised in order to lighten the administrative burden, to avoid excessive recourse to PSO for closing certain markets to competition and to attract more competitors in the tender procedures.
- (4) **Clarification of relationships with third countries:** the proposal replaces all existing bilateral agreements between Member States which still restrict the freedom to provide air services.

¹ Regulation (EEC) No 2407/92 on licensing of air carriers (OJ L 240, 24.8.1992, p. 1), Regulation (EEC) No 2408/92 on access for Community air carriers to intra-Community air routes (OJ L 240, 24.8.1992, p. 8), Regulation (EEC) No 2409/92 on fares and rates for air services (OJ L 240, 24.8.1992, p. 15).

- (5) **Clarification of the rules applicable to traffic distribution between airports:** the present two-step procedure – first establishment of an airport system and then definition of the traffic distribution rules – is replaced by a one-step procedure where the concept of an "airport system" is abandoned.
- (6) **Improved protection for consumer rights (price transparency and non-discrimination):** in the proposal, air fares have to include all applicable taxes, charges and fees and air carriers must provide the general public with comprehensive information on their air fares and rates and the conditions attached.

3. COMMENTS ON THE COMMON POSITION

The common position not only represents the Council's position but also reflects the compromise reached between the three institutions following the negotiations in autumn 2007. The Chairman of the European Parliament's Committee on Transport and Tourism has informed the Council Presidency by letter that he would therefore be recommending that the TRAN Committee approve the common position on second reading, provided that the terminology on the wet-leasing of aircraft proposed by the Parliament is incorporated.

This compromise, including the European Parliament's request, was endorsed by the Transport, Telecommunications and Energy Council at its meeting on 30 November 2007.

Apart from this specific point, the other items under discussion between the three institutions which were the subject of a compromise incorporated in the common position concern:

- **The social dimension of the internal market:** the two institutions are satisfied by a recital (Recital 8a) reiterating the Member States' obligation to apply the relevant national and European social legislation. The Commission has also made a commitment to inform both institutions of the findings of the study it is carrying out into the impact of the internal aviation market on employment and working conditions;
- **The financial soundness to cover the reimbursement and repatriation of passengers in the event of bankruptcy:** this is no longer referred to in the text but the Commission will study the feasibility and implications of any measure involving an obligation to take out insurance for the reimbursement of tickets and to cover repatriation fees;
- **External relations:** this aspect was categorically rejected by the Council. In the interests of compromise and to secure a comprehensive agreement between all the institutions, the Commission accepted that the provisions on external relations be removed, but made a joint declaration with the Member States on cooperation concerning the access of third countries to the internal market in air transport. Furthermore, it made a unilateral declaration on the restrictions to code sharing arrangements between Community and third country air carriers, as referred to in the new Article 15(5);
- **Traffic distribution between airports:** under the new Article 19 traffic may be distributed between airports provided that the airports:
 - serve the same city or conurbation,
 - are served by an adequate transport infrastructure with, as far as possible, a direct connection making it possible to arrive at the airport in less than 90 minutes including, where necessary, on a cross-border basis,
 - are linked with each other and the city or conurbation they serve by frequent, reliable and efficient public transport services.

- provide the services needed by air carriers and do not unduly prejudice their commercial opportunities.
- **Price information:** the scope of the obligation for transparent information and non-discrimination has been extended to all flights leaving the Community, including flights operated by third country air carriers (Article 24). From now on the final prices announced for these flights must include fares, taxes, airport charges and other charges, surcharges and fees. A recital (Recital 15) encourages Community airlines to demonstrate the same level of transparency for flights to Community airports.

The Commission welcomes the fact that the new rules have been considerably improved and are much clearer as a result of the interinstitutional negotiations.

4. CONCLUSION

The Commission considers that the Council's common position helps maintain the main aim and the spirit of its proposal and is therefore able to support it. It welcomes the fact that it reflects the state of the interinstitutional negotiations, paving the way for the adoption of this proposal on second reading.