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Proposal for a Regulation of the European Parliament and of the Council
on common rules for the operation of air transport services in the
Community - Impact assessment

Delegations will find attached Commission document SEC(2006) 943.

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.7.2006
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COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

**Proposal for a regulation of the European Parliament and of the Council on
common rules for the operation of air services in the European Community
(recast)**

{COM(2006) 396 final}
{SEC(2006) 976}

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1. EXECUTIVE SUMMARY

On 23 July 1992 the final stage in the liberalisation of air transport in the Community was reached with the adoption of the three Council Regulations - No 2407/92, 2408/92 and 2409/92 - known as the "third package". This followed up the "first package", adopted in December 1987, and the "second package" of June 1990.

More than ten years after the entry into force the third package has largely played its role, allowing unprecedented expansion of air transport in Europe at affordable fares. Despite this success, most of the Community's airlines continue to suffer from overcapacity and from the excessive fragmentation of the market. In addition, passengers do not reap the full benefits of the internal market because of a lack of price transparency or because of discriminatory practices on the basis of the place of residence.

The inconsistent application of the third package across the Member States and the lingering restrictions on intra-Community air services distort the level-playing field of the airlines and limit competition in some parts of the internal market.

The Commission initiated a consultation process that has shown that the present legal framework does not require a profound revision, but that it needs a number of adjustments and precisions in order to address the identified short-comings. The Commission has studied a series of measures that ensure an efficient and homogeneous application of Community legislation for the internal aviation market via stricter and more precise application criteria. They would also reinforce the internal market by lifting still existing restrictions to the free provision of intra-Community air services and enhance consumer rights by promoting price transparency and non-discrimination.

The present document assesses more in depth the economic, social and environmental implications of the suggested measures that concern the following areas:

- (1) Requirements for the operating licence
- (2) Practices with regard to aircraft leasing
- (3) The link between the internal aviation market and air services to third countries
- (4) Public service obligations (PSO)
- (5) Traffic distribution between airports
- (6) Fares transparency

Alternative options that would move too far away from the existing legal framework - such as the creation of a Community licensing authority - have already been excluded through the consultation process. Therefore, in the impact assessment we compared a 'no change' option and a 'change' option where the latter consists of a series of measures addressing directly each of the problems identified in the analysis of the third package.

The assessment shows the overall positive impact of the proposed measures in the ‘change’ option. Hence, the Commission has integrated the studied measures into its proposal for a revision and consolidation of Regulations 2407/92, 2408/92 and 2409/92.

2. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

2.1. Organisation and timing

It should be noted that this revision does not intend to make fundamental changes to the legal framework of the internal aviation market, but rather to ensure a more consistent and efficient application of its rules and to contribute to the Commission’s objective to simplify the Community legislation. The impact of the revision should be considered in this light.

The impact assessment was subject to a contract with an external consultant, which was awarded after an open competition. The contract examined the application of the Regulations (CEE) 2407/92, 2408/92 and 2409/92 across Member States and analysed the economic, social and environmental impacts of the proposed revision.

During the contract, there was a permanent feedback from the impact assessment in order to adjust the proposed revision taking account of its findings.

2.2. Consultation and expertise

The preparation of this proposal has been preceded by a public consultation exercise in order to gather as many comments and suggestions as possible from the individuals and bodies concerned. This exercise respected the minimum standards for consultation of interested parties as defined in the Communication from the Commission of 11 December 2002 (COM(2002) 704 final).

An open internet-based consultation took place between 17 March and 30 September 2003. Despite having taken place three years ago, the contributions to the consultation process remain presently valid as their context has not fundamentally changed. The consultation paper, the contributions and the summary of the contributions are available on the Commission’s “Your voice in Europe” website:

http://europa.eu.int/yourvoice/index_en.htm,

and more particularly on the following internet address:

http://europa.eu.int/comm/transport/air/rules/package_3_en.htm.

The Commission received 56 contributions, breaking down into the following groups:

- National authorities (Ministries and/or civil aviation authorities): 22
- International organisations: 4
- Air carriers and representative bodies: 11
- Local authorities and/or professional associations: 8

- Airports: 2
- Organisations representing air transport workers: 5
- Organisations representing air transport users: 2
- Miscellaneous contributions: 2.

On 26 February 2004 a consultation meeting with stakeholders was held in Brussels. Delegations from 11 Member States and from 11 organisations representing airlines, airports, tourism operators and the air sector's employees and workers were present.

The following main trends emerge from the contributions to this consultation process.

All of the respondents agree with the Commission as to the positive effects of the third package on the liberalisation of air transport. The majority consider the current regulations to be satisfactory, subject to a few adjustments combined with an effort to harmonise which could be made by adding more detail in the texts or drafting guidelines. Some of them, especially among the carriers, consider a revision to be unnecessary or at any rate not urgent. However, there is support for the modernisation and simplification of the texts and the suppression of provisions that were needed in 1992 but that are outdated today.

As regards Regulation (EEC) No 2407/92, respondents generally recognized that procedures for checking air carriers' financial viability should be tightened up and that there is a need for more detail and harmonisation in matters concerning the effective control of air carriers. Furthermore, a majority of air carriers found significant differences between Member States in the interpretation of the rules regarding the lease of aircraft that could lead to unequal treatment and distortions of competition.

Most of the respondents consider that safety matters should be dealt with in the framework of the development of the European Aviation Safety Agency (EASA). The need for a Community authority with responsibilities for licensing and supervising the process was not perceived by national authorities, whereas air carriers did seem to favour harmonisation regarding licensing.

As regards Regulation (EEC) No 2408/92, a substantial majority of the respondents considers that questions of relations with third countries should not be dealt with in the revision of the third package and that the latter should focus on the internal market. There is broad agreement on the need to simplify the procedure for fulfilling public service obligations (PSO) and significant proportion of the air carriers between the respondents found that there is a risk of distortion of competition in that area.

The proposals regarding fares (Regulation (EEC) No 2409/92) showed air carriers' opposition to anything that might jeopardise the freedom to set fares, as presently enshrined in the competition law and safeguard rules of Regulation 2409/92. However, some national and regional authorities and user organisations appear to be willing to act to ensure greater transparency and genuine accessibility for all Europeans to the air fares offered in the Union.

All the comments expressed during the consultation process have been carefully examined in the preparation of the proposed revision. The results from the consultation have been fed into the impact assessment. The already mentioned contract with an external consultant was carried out between December 2004 and October 2005.

3. PROBLEM DEFINITION

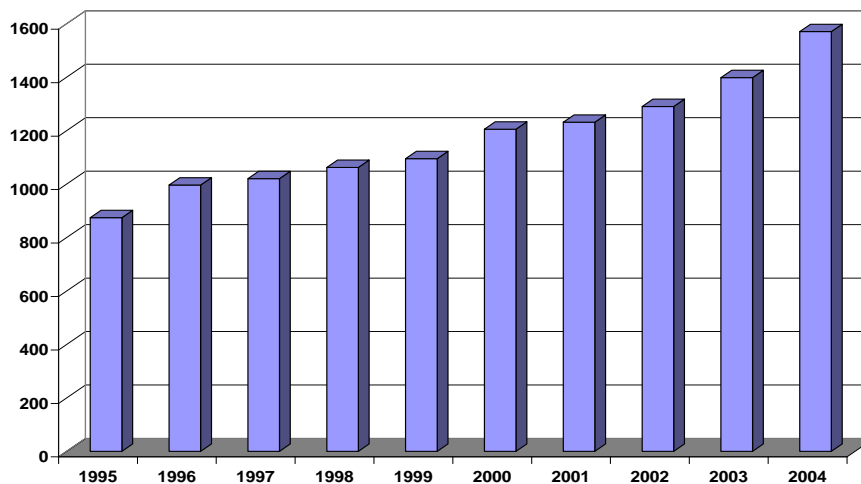
3.1. What is the issue or problem that may require action?

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

Since the beginning of liberalisation in 1987, European aviation has moved from a highly regulated market, based on bilateral agreements and a duopoly and therefore having little or no competition, to a highly competitive single market. In this new situation the discretionary powers of the national authorities have been curbed and airlines have enjoyed greater freedom to set fares, open new routes and determine what capacities to offer, according to economic and financial considerations.

Liberalisation has transformed the economic landscape of aviation by allowing more competition. The number of airlines has risen and there has been a general increase in the amount of traffic and competition on routes. The benefits of liberalisation can be seen in the opening up of new routes and the increase in competition on routes previously operated as a monopoly within the Community. For example, the number of served routes (or city-pairs) has increased steadily (graph 1).

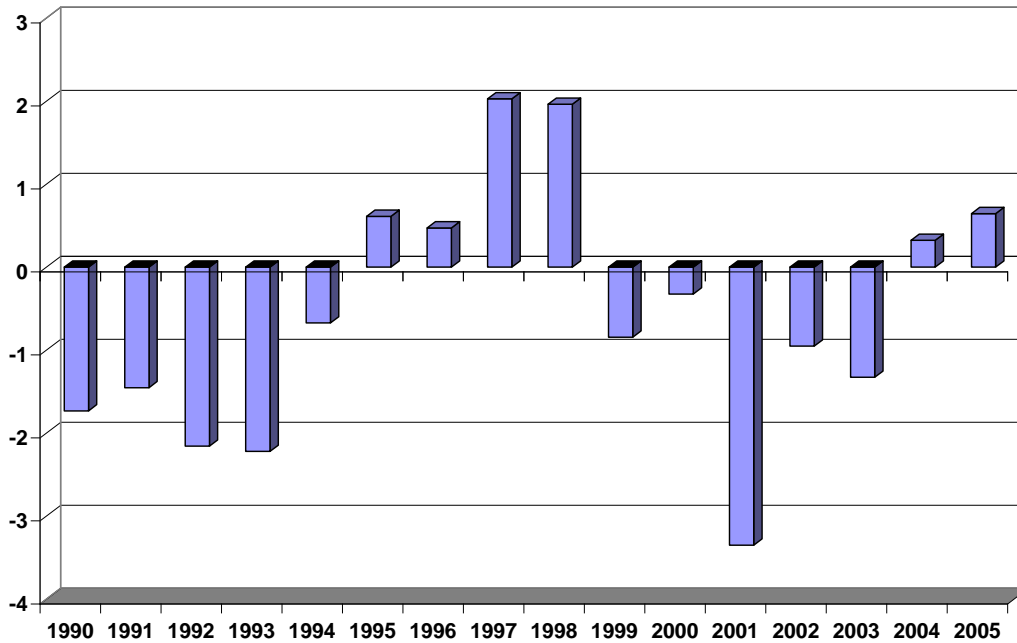
Graph 1: number of intra-EU routes (city-to-city)



Due to the competition it has engendered, liberalisation has brought benefits to consumers as well, in particular with the considerable increase in promotional fares and the emergence of companies specialising in low-budget fares which now represent about a fifth of the traffic within the Community with a substantial margin for growth.

Despite the considerable increase in air traffic since the implementation of the liberalisation measures of the third package, many of the Community's airlines continue to struggle to be profitable; they are heavily in debt and constantly lack working capital. The airlines suffer from overcapacity and from the excessive fragmentation of the market despite current attempts at consolidation. The results of this fragmentation of the industry and the market are making themselves felt: European airline companies and their customers are not deriving the maximum benefit from the internal market.

Graph 2: combined operating results of AEA airlines



(Association of European Airlines, data in billion euro, estimate for 2005)

Especially younger carriers show a fragile financial situation that reflects in high bankruptcy rates. Indeed, as shown in table 1, a quarter of the bankrupt carriers were less than a year old and half of them were less than four years old. High bankruptcy rates lead to instability in the employment market and also create financial risks for the consumers that hold tickets of financially fragile airlines.

Table 1: percentage distribution of length of operation of bankrupt air carriers in the EU (years 2000 to 2005)

	Number	% of total
Never commenced services	4	8%
5 months or less	6	12%
6 months but less than 1 year	3	6%
1 to 2 years	3	6%
2 to 3 years	6	12%
3 to 4 years	4	8%
4 to 5 years	2	4%
5 to 10 years	9	18%
10+ years	13	26%
All	50	100%

Furthermore, consumers do not always reap the full benefits of the internal aviation market because of discriminatory pricing practises based on their place of residence or insufficient price transparency because of the various practises with regard to charges and fees.

3.2. What are the underlying drivers of the problem?

Market efficiency, safety and consumer protection have been affected by the non-homogeneous application of the third package across the Member States and by the subsistent restrictions on intra-Community air services. These divergences have been observed in the following areas:

- (1) Requirements for the operating licence
- (2) Practices with regard to aircraft leasing
- (3) The link between the internal aviation market and air services to third countries
- (4) Public service obligations (PSO)
- (5) Traffic distribution between airports
- (6) Fares transparency

The inconsistent application of Community legislation in these six areas translates into the following effects:

- Absence of a level-playing field: market efficiency is affected by competition distortions (e.g. varying severity with regard to the requirements of the operating licence; discrimination of EU carriers on the basis of nationality; restricted access to routes to third countries; etc.);
- The inconsistent application of rules governing the leasing of aircraft from third countries with crew has adverse social implications and causes distortions of competition;

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

3.2.1. *Varying implementation of the requirements for the operating licence*

Substantial differences were found across Member States with respect to the financial assessment required for the granting and revocation of licences. The monitoring of the financial health of the airlines is being checked with different degrees of severity depending on the Member State that issued the licence. Airlines in a fragile financial position are allowed to continue to operate in some Member States, while in other Member States their operating licence would have been revoked. Therefore, a real level-playing field between airlines from different Member States is not always assured.

The continued operation of financially unsound airlines might create safety risks, as these airlines do not always have the necessary means to ensure operations under optimal safety conditions. In addition to the safety risk, consumers are exposed more than necessary to the financial risk of being left with worthless tickets in case of an airline's bankruptcy and employment in the aviation sector is precarious and unstable.

In short, the varying implementation of the requirements for the operating licence leads to:

- The absence of a level-playing field for air carriers
- A higher bankruptcy risk of air carriers
- A higher safety risk

3.2.2. *Varying practices with regard to aircraft leasing*

The application of the present provisions of Regulation 2407/92 raise mainly social and safety concerns. Rules and practice with regard to leasing (especially wet-leasing i.e. leasing of aircraft with crew) differ between Member States.

The safety assessment of leased aircraft from other Member States or even third countries is not pursued with the same rigour in all Member States, creating concerns about safety levels. In such case consumers would be exposed to higher safety risks.

The sometimes regular recourse to wet-leasing from third countries creates situations in which Community carriers avoid the higher costs linked to the social and labour regulations of the Member States; they create competition distortions in the internal market and undermine social conditions of airline staff.

However, it should be mentioned that at present not many companies in Europe make use of wet lease agreements, especially for third countries aircraft. However, with actual legislation the number of cases is expected to increase.

In short, varying practices with regard to aircraft leasing lead to:

- The absence of a level-playing field for air carriers

- A risk of adverse social effects
- A higher safety risk

3.2.3. *Inconsistencies between the internal aviation market and its external dimension*

Although it is not the aim of the third package to regulate relations with third countries, some aspects of the internal aviation market are closely interlinked with the external dimension. In the context of the progressive opening of the internal aviation market via international agreements, some provisions of old bilateral agreements between Member States continue to restrict the provision of air services. These provisions stand in the way of a fully liberalised internal aviation market and lead to inconsistencies between the internal and the external dimensions of that market:

- Some Member States still grant their national air carriers price leadership for routes from their territory to third countries, restricting the possibility for air carriers from other Member States to offer competitive indirect flights via their home market (6th freedom flights)
- Some Member States ban the possibility for Community carriers from other Member States to combine flight numbers with third-country carriers (code-sharing) despite the existence of international agreements.
- Moreover, traffic rights to operate intra-Community flights are being negotiated individually by Member States whereas those rights are directly affecting the internal market. In line with the competences that the Court's "Open skies" judgements¹ of 5 November 2002 affirm, the Community should be fully able to negotiate a coherent approach between the internal and external dimensions of the internal aviation market, not only to ensure conformity with Community law but also to control all operations within the internal market, including those of third country carriers, would there be deriving from fifth, sixth or seventh freedom rights².

¹ COM(2002) 649 final : Communication from the Commission on the consequences of the Court judgements of 5 November 2002 for European air transport policy.

COM(2003) 94 final: Communication from the Commission on relations between the Community and third countries in the field of air transport and Proposal for a European Parliament and Council Regulation on the negotiation and implementation of air service agreements between Member States and third countries.

COM(2005) 79 final: Communication from the Commission on developing the agenda for the Community's external aviation policy

² Fifth freedom right: the right to carry passengers or cargo between two countries by an airline of a third country on a route with origin/destination in the home country.

Sixth freedom right: the right to carry passengers or cargo from a second country to a third country by stopping in its home country.

These restrictions limit competition in the internal aviation market, reducing thereby the number of flights offered and increasing fares. EU passengers do not have the same access to flights to third countries on the basis of their place of departure in the EU.

In short, subsisting restrictions on intra-Community air services lead to:

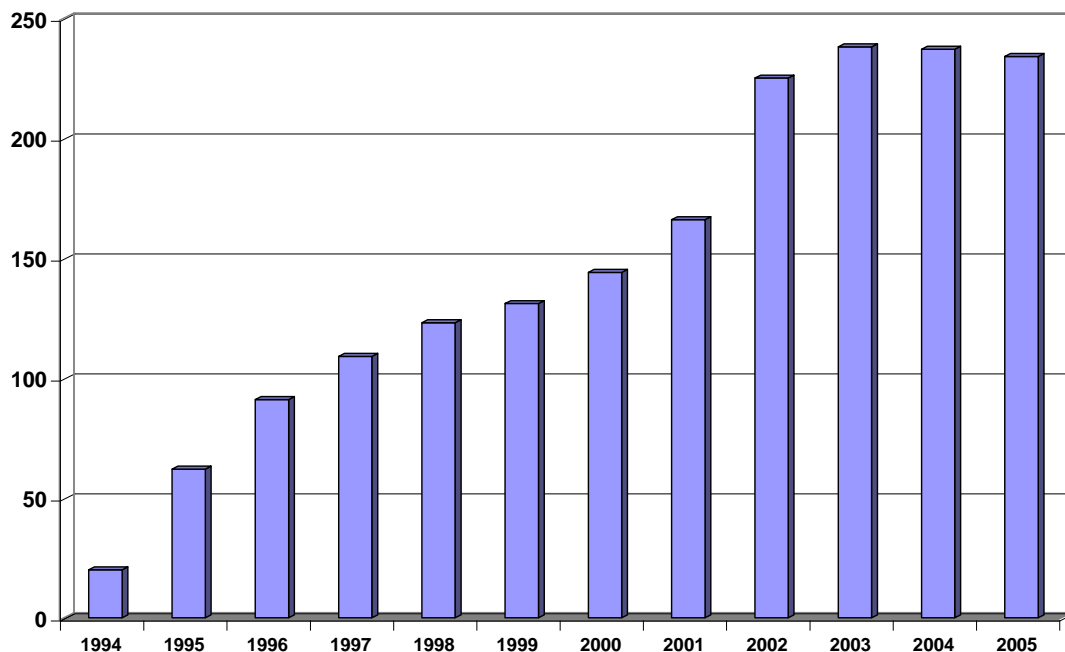
- Competition distortions
- Discrimination of EU carriers on the basis of their nationality

3.2.4. Varying recourse to public service obligations (PSO)

There is no doubt that public service obligations are a useful policy tool to address market failures. Indeed, on some thin routes - especially to remote regions or islands – no air carrier is willing to take up regular services on a purely commercial basis, which would lead to a situation of insulation that would seriously hamper the economic development of the region or island in question. For the sake of economic development and territorial cohesion, public service obligations are sometimes the only tool to ensure regular air services in order to break the geographical and economic insulation of these regions and their inhabitants.

However, there is growing concern of an excessive or non-harmonised recourse to public service obligations. It is feared that these routes are being safeguarded against competitive forces in a counterproductive way and against the spirit of the deregulatory process itself.

Graph 3: number of routes with PSO imposition in the EU (end of year data)



Seventh freedom right: the right for an airline to carry passengers or cargo between two countries by an airline of a third country on a route outside its home country.

At the end of 2005, PSOs were imposed on 234 routes in the EU and access to four fifths of these was restricted to an air carrier selected by tender.

Some Member States show a higher tendency to make use of such safeguard provisions than others. Available information shows that there are also significant country variations concerning average subsidy levels per passenger.

In short, varying recourse to PSOs leads to:

- Competition distortions
- Higher subsidization levels

3.2.5. Unclear provisions for the distribution of traffic between airports

An airport system is defined as “two or more airports grouped together as serving the same city or conurbation”. Under present rules, existing airport systems are published in Annex II of Regulation 2408/92. Member States may distribute traffic within these airport systems on the basis of objective criteria. The Commission examines the traffic distribution rules at the request of a Member State or on its own initiative.

At the adoption of Regulation 2408/92, 8 airport systems³ have been included in the list of annex II. The airport system of Stockholm-Arlanda/Bromma has been added at the accession of Sweden on the 1st of January 1995. Since then, no new airport systems have been added. The request by Germany of 28 April 2005 to establish a new airport system at Frankfurt is the first time that a request is formulated on the basis of article 8(5) of regulation 2408/92.

The present rules have two inconveniences:

- The term “conurbation” has not been clearly defined and may lead to inconsistent interpretation.
- The two-step procedure requires prior approval of the Commission for the creation of an airport system – although the creation of the system has no other consequence than to allow the possible introduction of traffic distribution – while the traffic distribution rules themselves, although being the most restrictive step of the procedure, can be imposed without prior approval (though the Commission may examine them).

The considerable growth in air traffic since its liberalization has led to increased strain on airport capacities and the expected continuation of high growth rates in air traffic will most probably lead to congestion in more airports in the future. The recourse to traffic distribution by creating more airport systems is likely. The present rules

³ The eight airport systems defined in 1992 were : Copenhagen-Kastrup/Roshilde, Berlin-Tegel/Schoenefeld/Tempelhof, Paris-Charles de Gaulle/Orly/Bourget, Lyon-Bryon/Satolas, Rome-Fiumicino/Ciampino, Milan-Linate/Malpensa/Bergamo (Orio Al Serio), Venice-Tessera/Treviso, London-Heathrow/Gatwick/Stansted (annex II of Regulation (EC) No 2408/92)

applicable to the establishment of airport systems give too much room for interpretation and may create legal uncertainty.

There is a risk that traffic distribution might be operated in a non-homogeneous way across Member States and that in some cases traffic distribution could be based on arbitrary criteria.

In short, unclear provisions for the distribution of traffic between airports lead to:

- Competition distortions

3.2.6. *Price discrimination and insufficient price information*

The experience with the present rules of the Regulation 2409/92 has shown that two types of problems may appear:

- The publication of fares that exclude taxes, charges and even fuel surcharges has become a widespread practise that hampers price transparency. Consumers are being misled by seemingly interesting fare offers and are only told the full fare at the moment of payment.
- On multiple occasions, the Commission had to deal with consumer complaints about airlines charging different fares for exactly the same ticket depending on the place of residence of the consumer. Most of the complaints referred to reservations made via the internet and where a consumer attempting to book via the internet site located in another Member State was refused the sale at the moment of introducing his credit card number (that identifies his place of residence). Although most of these discriminatory practises ceased at the intervention of the Commission, they may recur as long as these practises are not explicitly banned by the specific air transport regulations.

In short, insufficient price information leads to:

- Reduced price competition
- Discrimination on the basis of the place of residence

3.3. Who is affected, in what ways, and to what extent?

The most affected by the present situation are European citizens as they do not reap all the benefits of a fully liberalised internal aviation market. An incomplete competitive environment leads to higher fares and less travel options for passengers (especially on routes to third countries). Concerning air fares, they may be victim of discriminatory practices based on their place of residence or have difficulties to compare fares between airlines because some of the latter publish their fares without including taxes and surcharges.

Passengers also run the risk of facing the consequences of an airline going bankrupt because it was allowed to continue operating despite insufficient financial health (table 2). Furthermore, as taxpayers, they may have to contribute more than necessary to the

financing of public service obligations or to the operation of fragile public air companies.

Table 2: Number of airline bankruptcies and of stranded passengers

	Number of bankruptcies	Stranded passengers
2000	3	550
2001	11	22900*
2002	7	3380
2003	10	11155
2004	14	12150
2005**	5	12950
TOTAL	50	63085

* 2001 includes the bankruptcies of two flag carriers, Sabena and Swissair

** up to end of September 2005

European air carriers are affected by the present situation because the non-homogenous application of the third package legislation creates competitive advantages for some carriers over others. The absence of a level-playing field distorts the rules of fair competition.

Finally, also the regulatory authorities of the Member States are affected by the present situation as the third package regulations sometimes lack clarity and precision.

3.4. How would the problem evolve, all things being equal? Should the EU act?

The above-mentioned problems arising from an inconsistent application of the third package regulations are expected to subsist if the legislation is not changed.

Without a more stringent and homogeneous application of procedures for granting and revoking operating licences, we will continue to assist to a high failure rate among market entrants that risks to leave their passengers stranded. Although market consolidation is expected to progress, this will most likely happen at a slow rate, leaving European air carriers ill-prepared to take on international competition. No action would also leave unchanged the present competitive imbalances for air carriers between Member States (absence of a level-playing field). Furthermore, given the often precarious financial situation of many new airlines, employment in the airline sector will remain unstable.

Although only a limited number of airlines make use of leasing agreements of third country aircraft with crew (wet-lease), under present legislation it can be expected that this number will increase while the safety supervision in these instances is not always fully assured.

In a context of more liberal external aviation relations – in the wake of the “open skies” ruling – the present legislation in combination with surviving provisions from old bilateral agreements between Member States creates additional hurdles by divergent practices between Member States, especially with regard to code-sharing with third country carriers and price setting on 6th freedom routes. This will limit the economic benefits that citizens can reap from the liberalisation of external relations as the price

and the choice of connections with third countries will depend on their place of departure in the European Union.

Some Member States resort more easily to public service obligations (PSO) than others: only ten Member States impose PSOs. At the same time, the number of PSOs and their restrictive nature has increased significantly over the years. In addition, subsidy levels for PSOs have been increasing with significant country variations as to the average subsidy level per passenger. This tendency increases the risk for travelling citizens to be confronted with monopolies and thus higher fares and reduced supply. At the same time, in cases where PSOs are necessary, present rules do not always attract a sufficient number of competitors in the tender procedure (for example because the concession period is too short to write off route-specific equipment while the incumbent airline has already the equipment in place).

As concerns air fares, price transparency is expected to further deteriorate given the confusion with respect to “all-inclusive” fares and fares “exclusive of taxes and charges”. Again, legislation concerning fare publication differs between Member States.

The varying application and interpretation of the third package legislation between Member States justifies EU action on the basis of article 80(2) of the Treaty in order to ensure a homogeneous application of the legislation and allow a more efficient functioning of the internal aviation market.

4. OBJECTIVES

4.1. General objectives

The general objectives of the revision of the third package are to increase market efficiency, to improve the safety of air services and to improve passenger protection.

- Increased market efficiency corresponds to a homogeneous and efficient application of Community legislation throughout the Member States and the creation of a true level-playing field for the airlines in the internal aviation market.
- Higher safety levels correspond to a reduction of the safety risks related to the continued operation of financially unsound airlines and the recourse to wet-leasing of aircraft from third countries without consistent monitoring.
- Passenger protection refers to the objective to reduce the risk of passengers suffering from the consequences of an air carrier’s bankruptcy, of insufficient price transparency or discrimination on the basis of the place of residence.

Increased market efficiency will favour market consolidation and the competitiveness of air companies on the world market. In this sense, the revision will contribute to the objectives of the Lisbon strategy to strengthen the competitiveness of the European economy.

4.2. Specific objectives

The revision of the third package should pursue the following specific objectives in order to reach the general objectives:

- Ensure the sound overall financial health of the Community air carriers;
- Avoid competition distortions;
- Avoid social dumping;
- Enhance price competition and price transparency;
- Avoid discrimination of EU carriers on the basis of nationality.

5. POLICY OPTIONS

The nature of the stated problem – non-homogeneous and inefficient application of the legislation – does not require a profound revision of the options taken when the third package on the internal aviation market was adopted. Indeed, the consultation process has confirmed the overall satisfaction with the third package.

However, most market participants agree that a number of adjustments and precisions of the legal framework are needed. The preceding analysis has shown that some specific problems need to be addressed in order to enhance market efficiency through homogeneous application of the legislation.

Safety matters are not directly addressed in the context of the revision of the third package, but are already being tackled by distinct Commission initiatives in aviation safety, such as the Commission's proposal for a regulation amending Regulation 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation⁴. Nevertheless, the revision of the third package has some safety implications, such as the monitoring of the carriers' financial health or the supervision of wet-lease agreements.

For these reasons, the revision of the third package does not intend to radically change the legal framework, but rather to operate a series of adjustments in order to address the identified problems. In the impact study, we mainly focussed on the comparison between a 'no change' option and a 'change' option:

- (1) A 'no change' option, which is leaving unaltered the present three regulations composing the third package of the internal aviation market (a consolidation of the text without changing the content would also correspond to this option);
- (2) A 'change' option, which includes a series of changes to the third package in order to ensure the homogenous and effective application of its rules.

⁴ OJ C 311 E, 31.10.2000, p. 13.

Given that no radical changes were sought for, it would be unrealistic to study alternative and more radical options to those proposed in the ‘change’ option. Any options that move too far away from the existing legal framework have already been excluded through the consultation process.

One alternative option would have been the setting-up of a Community authority to grant licences or to supervise the granting process. It would have offered the advantage of guaranteeing that the operating licences are issued and monitored in exactly the same way for all Community air carriers. However, during the public consultation, the national authorities were virtually unanimous in regarding this development as unnecessary or premature. Therefore, this idea is not further studied in the impact assessment.

We present a comparison of a ‘no change’ option and a ‘change’ option where the latter consists of a series of measures addressing directly each of the problems identified in the previous analysis.

The following table gives an overview of the measures proposed in the ‘change’ option and how these contribute to the general and specific objectives pursued.

Table 3: Overview of key issues for the revision of the Third Package ('change' option)

Area	Measures	General objectives	Specific objectives
Granting and monitoring of operating licences	Stricter requirements as to the information to be provided by air carriers	-Increase market efficiency and safety	-Reduce bankruptcy risk - Better supervision of the technical and financial conditions
	Stricter conditions for submission and approval of financial accounts	-Increase market efficiency and safety	-Reduce bankruptcy risk -Increase transparency of the market
	More regular review of the air carrier meeting the requirements of the operating licence, especially for start-ups	-Increase market efficiency and safety	-Reduce bankruptcy risk
	Introduction of a clearer procedure for revocation of an operating licence	-Increase market efficiency and safety	-Make the process homogeneous and transparent -Reduce bankruptcy risk
	Enhancement of Commission powers for revocation of an operating licence	-Increase market efficiency and safety	-Make the process homogeneous and transparent -Reduce bankruptcy risk
Leasing	Stricter requirements for leasing agreements, especially for wet-leasing (leasing with crew)	-Increase market efficiency and safety	-Avoid competition distortions - Increase safety - Avoid social dumping
Intra-Community air services	Access to intra-Community routes by non-Community carriers only through agreements to which the Community is a contracting party	-Increase market efficiency	-Consistency between internal and external dimensions of the internal market - Increase competition
	Free code-sharing and fare setting on routes to third countries	-Increase market efficiency	-Avoid discrimination of EU carrier based on nationality - Increase competition

Table 3 (Continued)

Area	Measures	General objectives	Specific objectives
Public service obligations (PSO)	Clearer legislation, better description of the conditions attached to PSOs	-Increase market efficiency	-Simplify the procedure -Facilitate a more homogeneous implementation -Restrict PSOs declarations to genuine cases -Avoid unnecessary competition distortions -Avoid unnecessary subsidization
	Longer concession periods: four years instead of three (five years in the case of ultra-peripheral regions)	-Increase market efficiency	- Attract more competitors to tender procedure
	Improvement of the Commission's information on the context of PSO impositions	-Increase market efficiency	-Restrict PSOs declarations to genuine cases -Avoid unnecessary competition distortions -Avoid unnecessary subsidisation
Distribution of traffic between airports	Clear definition of the concept of conurbation and abandonment of the notion of airport system	-Increase market efficiency	-Clarify and simplify the rules
	Enhancement of Commission powers in this matter: prior approval for traffic distribution	-Increase market efficiency	-Make the process more transparent -Avoid allocation of traffic based on arbitrary criteria -Avoid unnecessary competition distortions (among airports and among carriers) -Facilitate a more homogeneous implementation
Improved fares regulation	Transparency of fares information	-Increase market efficiency -Protect consumers	-Improve information to consumers in order to simplify their choice -Enhance price competition
	Provisions for ensuring non-discriminatory fares with respect to place of residence	-Increase market efficiency -Protect consumers	-Ensure all consumers are in the same position to access market benefits -Enhance price competition
	Leave price setting to market forces subject to general competition rules	- Increase market efficiency	- Ensure lower fares while avoiding competition distortions

6. ANALYSIS OF IMPACTS

The analysis of the impacts has been divided into:

- Economic or direct impacts on different stakeholders (mainly consumers and air carriers). We have also included impacts on the market structure.
- Social impacts, concerning level and quality of employment in the air transport sector.
- Environmental impacts associated with the operation of aircraft (pollution, global warming, noise, etc).

These impacts of the ‘change’ option are assessed in comparison to the base case of ‘no-change’.

6.1. Procedures for the granting and revocation of licences

The “change” option is given by the elements described in table 3 and that mainly aim at reinforcing the supervision of the requirements for the granting and validity of the operating licence. Giving it the power to withdraw an operating licence enhances the Commission powers.

In the public consultation, most of the national authorities did not see a need to tighten up regulation in this area. Still, this option was considered as most of the air carriers and organisations representing air transport workers and users were in favour of tighter financial controls and stricter enforcement of the rules.

Economic impacts

The ‘change’ option compels the national authorities to monitor more closely the financial health of air companies and to intervene if necessary. This obligation will reduce the divergent strictness in monitoring observed among Member States and will make the process more homogeneous and transparent, contributing to same conditions for operating licences across the Community. Homogeneous monitoring of the European air carriers will further be enhanced by the possibility given to the Commission to withdraw or suspend an operating licence when the requirements of the third package are no longer met.

Stricter monitoring, especially for start-ups, will reduce the likelihood of young air companies going bankrupt. By discarding financially fragile companies, this measure offers passengers a better protection against bankruptcies and their adverse consequences. However, as air carriers will have to provide more financial information in the first years of their existence, the stricter financial monitoring entails higher administrative costs for these airlines.

National authorities may face higher administrative costs for the supervision of the air carriers. The level of this cost increase depends on the level of monitoring already implemented today and will only be marginal for those authorities that already implement a tight supervision under present rules. Furthermore, the additional

information provided by the airlines will lighten the burden of information research for the authorities.

The sum of these measures is likely to promote market consolidation and to reinforce the European airlines' position on the world market. However, consolidation might also lead to a reduction of competition on certain routes and passengers might then end up paying higher fares. A smaller number of carriers is foreseen for the market, with a possible increase in the number of monopolized routes or even routes not being served. In order to prevent these effects, the Commission should carefully monitor the consolidation process on the basis of competition rules.

Stricter requirements and better supervision of start-up airlines will reduce the bankruptcy risk and the negative consequences for passengers. The average annual cost of bankruptcies to passengers (including repatriation cost and loss of advance bookings) is estimated at € 15.6 million⁵. As a matter of indication, a 50% reduction of the number of bankruptcies among air carriers with up to two years of operations would save consumers on average € 2.4 million annually.

In the sense that there is a risk that financially weak companies might neglect safety and security issues, a stricter supervision of their financial health will also make air transport safer.

Social impacts

As a consequence of carriers being in a better financial situation and in a better position to compete, employment is expected to be more stable and less precarious. The failure rate of new market entrants should be reduced.

Note that these effects are rather small when compared to the observed employment variations in recent years. The sector experienced a difficult period (with events like 9/11, SARS or the steep increase of fuel prices) that has led to a restructuring process in the sector.

Environmental impacts

The existence of stricter financial requirements is not expected to have significant environmental effects. The environment will be affected by the underlying growth in air traffic, but not directly by these changes in legislation. The growth rate of air traffic should not be affected more than marginally, as from the strictly environmental point of view it is not relevant if this traffic is being generated by financially sound airlines or less healthy airlines, by European or third country carriers.

6.2. LEASING

The revision of leasing practices under the 'change' option (see table 3) aims at increasing the safety of operations and at reducing competition distortions at the same time.

⁵ In some years, this figure can go up to € 37.1 million.

The public consultation has shown that most respondents agreed that the criteria applicable to leasing should be clarified, while stressing that the flexibility provided by lease contracts for the commercial activity of the airlines needs to be preserved. Most air carriers support the introduction of more precise and harmonised criteria as today there are significant differences between Member States in the interpretation of the rules regarding the lease of aircraft. The national authorities agreed that the concept of a temporary need for the leasing of third country aircraft could be limited to six months.

The organisations representing workers in the aviation industry support the introduction of more precise and stricter criteria. They are also in favour of a condition of reciprocity with non-Member States, an idea that was not supported by most of the other respondents; it was retained in the ‘change’ option in view of the social consequences of this type of leasing.

Although most national authorities were opposed to the idea as long as safety rules are not harmonised, the ‘change’ option takes account of the recent harmonisation of technical requirements and administrative procedures in the field of aviation, and allows that aircraft used by a Community carrier may now be registered in another Member State than where the operating licence of the carrier has been granted. But at the same time, the use of aircraft registered in third countries will be submitted to stricter rules.

Indeed, the possibility for waivers to the obligation of registration of the aircraft in case of short term lease agreements in exceptional circumstances is restricted by giving a precise time limit to these waivers (maximum six months and renewable only once in a second non-consecutive period of up to six months). For wet-leases of aircraft from third countries, they will be subject to the existence of a reciprocity clause in an agreement with the third country.

Concerning wet-lease agreements in general, the competent licensing authority is required to declare in writing that safety standards equivalent to those imposed by Community legislation are met.

Although aircraft leasing is a normal practice in air transport markets, wet leasing, especially of third country aircraft, has not been so frequent. Indeed, the table below shows that in September 2005⁶, only 57 aircraft operated by Community carriers were wet-leased from third countries. It must be noted that 38 of these were registered in the EEA or in Switzerland which, thanks to the EEA Agreement and the EU-Switzerland bilateral air transport agreement, can be assimilated to Member States.

Therefore, we proceed to identify main impacts derived from changes in the proposal, though we anticipate that the impacts’ magnitude will not be very significant.

⁶ The figures with respect to September 2005 are representative for the summer season where most of wet-leasing takes place. Indeed, the comparison with other periods of the year and of previous years has shown that the data shown in the table are on the high side of the number of wet-leases observed throughout the year.

Table 4: Leased aircraft by Community carriers in September 2005

Total fleet	Of which: Leased aircraft	Of which: Wet-leased and franchised aircraft	Of which: Wet-lease of third country aircraft	Of which: Wet-lease of third country aircraft from outside the EU, the EEA and Switzerland
5081	3036	337	57	19
100%	59.8%	6.6%	1.1%	0.6%

Economic impacts

The proposals about leasing practices are expected to benefit consumers who will end up enjoying higher safety levels. At the same time legislation is now clearer, therefore a more homogeneous application of it throughout Member States is anticipated and fewer distortions to competition are expected.

While the leasing of Community aircraft will be easier and less costly (no compulsory transfer of aircraft between national registers), the restrictions on leasing of third country aircraft will reduce the air carriers' flexibility to use these aircraft. This may increase the operating costs of some carriers and perhaps even reduce the number of operators on some routes.

Social impacts

As less wet-lease arrangements are expected to take place, employment in the sector should be more stable and less precarious including a possible improvement in working conditions.

Environmental impacts

The environmental effects are considered negligible.

6.3. The link between the internal aviation market and services to third countries

The consultation process showed that most respondents stressed that relations with third countries should not be dealt with in the third package as the latter refers to the functioning of the internal market. However, intra-Community traffic rights for third country carriers have a direct impact on the functioning of the internal market. The same is true for restrictions on intra-Community flights operated by Community carriers when these are connected to routes to third countries. For the sake of consistency between the internal market and these external aspects of it, the 'change' option addresses these issues.

Under the ‘change’ option (see table 3), the following measures will be taken:

- The European Communities will be responsible for negotiating intra-Community traffic rights with third countries, as the persistence of individual negotiations of such rights by Member States may cause inconsistencies in the functioning of the internal aviation market.
- Remaining restrictions from existing bilateral agreements between Member States will be lifted, permitting among other the free code sharing on routes to third countries and the free price setting on routes to third countries with an intermediate stop in another Member State (6th freedom routes).

Economic impacts

Even if the ‘change’ option confirms the right of the Community to enter into international agreements, the change in the third package has no impact by itself as it depends on the effective conclusion of such agreements (but the latter would have considerable effects)⁷. It must be stressed that the Community can only ensure the safe and coherent functioning of the internal aviation market if it is competent for all aspects of the internal market, including flights operated by non-Community carriers.

The freedom of code-sharing and the freedom of price setting on 6th freedom routes increases competition on these routes and would most probably translate into more supply (in terms of destinations and frequencies) and lower fares on those routes where restrictions apply at present.

Social impacts

As more activity will take place an increase of employment in the air transport sector is expected in comparison with the ‘no change’ option.

Environmental impacts

An increase in traffic levels may have an environmental impact such as an increase in climate change impacts, pollutant emissions and noise as well as increased pollutant emissions from land transport accessing airports.

⁷ If a new agreement between the EU as a whole and the US is reached, the very first impact would be that consumers would have access to more destinations within the US than before, and not only from its home country, but from any Member States. In this scenario, passengers wishing to fly to the US will face several alternatives and therefore, as more competition among European carriers will take place, they might benefit from price reductions. On the other hand, European carriers will benefit as well, accessing US markets in the same way as US carriers access EU markets. Therefore the market structure will be more competitive, not only among European carriers, but also between European and US airlines. See the study by the Brattle group (2002) “The impact of an EU-US Open Aviation Area”: http://europa.eu.int/comm/transport/air/international/doc/brattle_aviation_liberalisation_report.pdf.

6.4. Public Service Obligations (PSO)

In the ‘change’ option (see table 3), the procedure will be clarified, facilitating a homogeneous implementation. It also pursues to restrict PSO imposition to genuine cases, avoiding competition distortions and unnecessary subsidization. Member States are incited to carefully assess the necessity of imposing or continuing PSOs.

The ‘change’ option provides the Commission with better access to information on the justification and the economic context of PSOs.

In the consultation process, all respondents were in favour of simplifying the procedure relating to PSOs. This includes a simplification of the publication rules while still ensuring the adequate information of all air carriers and the extension of the validity of the concession period beyond three years. Most respondents also favoured the establishment of an emergency procedure in case of failure of the airline serving a PSO route. The ‘change’ option integrates these views, but also takes account of the concerns expressed by air carriers that the excessive use of PSO could lead to distortions of competition.

Economic impacts

There are indications that PSO legislative provisions have been misused in some instances⁸. With increased access to information on imposed PSOs, the Commission will be in a better position to monitor the correct application of Community legislation in this area. The clarification of PSO rules and the avoidance of misuse are likely to promote competition on domestic routes where most PSOs are located. This will result in lower fares and higher mobility levels for consumers.

Air carriers will benefit from the reduction of the competition distortions that exist when some air carriers receive public financing on routes where a PSO was not strictly necessary. Subsidies will also be reduced and more efficiently applied.

By increasing the time frame for PSO concessions from three years to four years (and five years in the case of ultra-peripheral regions), the new rules increase the chance of seeing more air carriers compete in the tenders for restricted routes. Indeed, a longer contract period facilitates the depreciation of route specific equipment (today this is often seen as a deterrent to the arrival of competitors of locally-based carriers). Increased competition in the tender procedure will help to reduce subsidy-levels and to avoid the potential market distortions when a single locally based air carrier can impose a higher than necessary subsidy-level.

Under present rules, the existence of alternative transport modes needs to be taken account of along with other criteria when assessing the adequacy of a public service obligation. Indeed, the necessity of PSOs is disputable when other transport modes already provide reliable and frequent services. The ‘change’ option adds the precision that the assessment should give particular attention to the existence of rail services that serve the envisaged route with a travel time of less than three hours. Indeed, the imposition of aviation PSOs on routes with good rail connections might counteract the

⁸ Williams, G ; (2005), European experience with direct subsidization of air services. Public Money and Management, 25, p. 155-161.

Community's policy in favour of rail transport on short distances (as described in the White Paper on the European transport policy of 12 September 2001⁹).

The “change” option leads to an administrative simplification for national and European authorities. Indeed, a simplified information notice announcing the imposition of a PSO will be published in the Official Journal of the Communities. Also for the public tender procedure in case of restricted access to a PSO route, a simplified information notice will be published in the Official Journal of the Communities while further details are provided on request by the Member State concerned. This method allows shortening the delays incurred in the publication of these notices. Furthermore, the longer concession period also reduces for the Member States and the Commission the administrative cost related to the organisation of the tender procedures. A report on the economic context of a PSO entails of course higher administrative costs, but it will not be required systematically, but only when a closer examination by the Commission is needed.

Social impacts

The employment effects should be limited. PSOs will be avoided on some routes where they are not strictly necessary, but this will promote employment in alternative transport modes. In a limited number of cases, by giving better access to unnecessarily restricted routes, competition will increase. If this leads to increased traffic levels then employment in the sector will also benefit.

Environmental impacts

The environmental impact is very limited: the possible increase in traffic is marginal and should have a limited impact on emissions. At the same time, better consideration of existing short-distance connections by rail will contribute to a limitation in emissions.

6.5. Distribution of traffic between airports

In the consultation, the majority of respondents were in favour of a more precise definition of airport systems and the fixing of objective criteria for the distribution of traffic between airports.

In the present legislation, the distinction between airport systems and distribution rules might give rise to confusion and the Commission's supervision should mainly apply to the traffic distribution rules – as they constitute a restriction on traffic rights - and not to the mere definition of an airport system.

Therefore, rather than better defining the airport systems, the ‘change’ option (see table 3) replaces the two-step procedure by a simpler one-step procedure where the concept of an “airport system” is abandoned: Member States may introduce traffic distribution rules on airports serving the same city or conurbation, but the prior approval of the Commission is required. It adds that the airports in question should be served by an adequate transport infrastructure and the airports and the city or conurbation they shall serve should be linked by a frequent, reliable and efficient public transport system. The term “conurbation” is defined (an urban area comprising a number of cities or towns,

⁹ COM(2001) 370 final

which through population growth and expansion have physically merged into one continuous built-up area).

In the ‘change’ option traffic distribution rules shall respect the principles of proportionality and transparency, and shall be based on objective criteria. This rule confirms that traffic distribution rules may not be abused in order to discriminate between air carriers.

The change in procedure does not fundamentally change the conditions under which traffic distribution rules can be imposed, but it clarifies these conditions by avoiding possible confusion between the two steps of the present procedure and by defining the concept of a conurbation. Therefore, the magnitude of effects of this change is expected to be marginal.

Economic impacts

The prior approval of distribution rules improves the monitoring by the Commission and avoids that unnecessarily restrictive measures are imposed. In comparison with the no-change option, this is likely to generate benefit to consumers through reduced competition distortions and lower prices.

The change of the procedure has a mixed effect on its administrative cost to the Member States and the Commission. On the one hand, the simplification to a one-step procedure reduces the administrative cost associated with the two previous steps of the procedure. On the other hand, changes to traffic distribution rules will be examined by the Commission in accordance with the comitology procedure.

Social impacts

Employment effects of this measure will be very limited as possible traffic increases are limited.

Environmental impacts

Possible traffic increases are limited and may have a limited environmental impact in the form of climate change and pollutant emissions and noise.

6.6. Improved fares regulation

While in the public consultation, most respondents showed strong support for the principle of price freedom, some of the organisations of air transport users demanded better access to all fares and greater price transparency. Furthermore, the Commission received a significant number of complaints with regard to price discrimination between passengers on the basis of their place of residence. The ‘change’ option includes measures to promote price transparency and non-discrimination.

Under the ‘change’ option (see table 3), air fares have to include all applicable taxes, charges and fees and air carriers shall provide the general public with comprehensive information on their air fares and rates and the conditions attached.

Air fares shall be set without discrimination on the basis of place of residence of the passenger or the place of establishment of the travel agent within the Community.

Regulation 2409/92 includes safeguard measures whereby Member States may withdraw excessively high or low air fares in order to protect the proper functioning of the market. These measures were introduced into the regulation as reassuring regulatory safeguards in the context of the liberalisation of air transport. However, experience has shown that they have never been used in practice and that market forces were sufficiently disciplined by general competition rules. As also most of the respondents to the consultation showed little support for this kind of measures, the ‘change’ option includes their removal from the third package.

Economic impacts

Consumers will now be better protected against misleading publicity on fares. They will also be able to enjoy lower prices as a result of the provisions ensuring non-discrimination and the ensuing price competition.

Air carriers will have to make an effort to provide transparent information and be careful about discriminatory treatment. Both requirements will impose higher administrative costs.

The removal of the above-mentioned safeguard rules should have no significant impact as they had never been applied in the past.

On the whole, competition will be fostered and traffic levels could increase.

Social impacts

Employment will increase if traffic levels increase thanks to lower fares fostering demand.

Environmental impacts

The increase in traffic is also likely to result in an increase of emissions and noise.

6.7. Social, Economic and Environmental Costs and Benefits

Our analysis looked into the impact of the ‘change’ option, in comparison with the base case, in particular along the following lines

- Overall impact on the European economy
- Social impact
- Environmental impact

This section gives a synthetic overview of the main findings.

Overall economic impact

The following table summarizes the expected economic effects of the ‘change’ option compared to the ‘no change’ option.

The measures are expected to increase competition and reduce market distortions, although the ensuing market consolidation needs to be followed carefully along competition rules in order to avoid abuses on some routes.

Air carriers benefit from the creation of a level-playing field although the operating costs might be slightly increased by the stricter requirements concerning the operating licence.

Consumers enjoy higher safety levels and reduced air carrier bankruptcy risk. Overall, the increased competition and greater price transparency should lead to lower fares and more services offered.

The ‘change’ option increases some administrative costs of the national authorities, e.g. for the monitoring of the operating licences, but decreases others, e.g. for public service obligations.

Economic impact table synthesis:

Impacts on:	‘Change’ option as compared with the no-change option	Impact
Competitiveness, trade and investment	<ul style="list-style-type: none"> - Market consolidation leads to more financially stable air carriers - Increased competition in the internal aviation market favours more competitive air carriers 	<p style="text-align: center;">+</p> <p style="text-align: center;">+</p>
Competition in the internal market	<ul style="list-style-type: none"> - Stricter leasing conditions reduce market distortions - Free air services within the Community and in conjunction with third country flights increase competition. - Stricter PSO rules reinforce competition. - Better supervision of traffic distribution favours competition. - Greater price transparency reinforces competition. - Consolidation from stricter requirements for operating licence might lead to more routes being served by monopolists. 	<p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">-</p>
Operating costs and conduct of business	<ul style="list-style-type: none"> - Stricter leasing conditions of third country aircraft reduce flexibility and increase cost of operations. 	-
Administrative cost on business	<ul style="list-style-type: none"> - Stricter conditions for the operating licence might increase administrative costs for airlines, especially for start-ups. - For the leasing of aircraft registered in a Member State, no transfer between registers is required 	- +
Property rights	<ul style="list-style-type: none"> - N/R 	
Innovation and research	<ul style="list-style-type: none"> - N/R 	
Consumers and households	<ul style="list-style-type: none"> - Stricter conditions for operating licence and leasing lead to higher levels of safety - Lower risk of enduring air carrier bankruptcy - More competition resulting from free intra-Community services (in conjunction with third country routes) reduce fares and increase services offered. - Reduced fares on routes that were unduly monopolized by PSOs. - Better supervision of traffic distribution reduces fares. - No price discrimination on the basis of the place of residence - More price transparency thanks to all inclusive fares - Stricter conditions for operating licences and for leasing might lead to higher fares 	<p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">-</p>
Third countries and international relations	<ul style="list-style-type: none"> - The Community’s competence for international aviation agreements has been confirmed and ensures a consistency between the internal and external dimensions of the aviation market. 	+
Public authorities	<ul style="list-style-type: none"> - National authorities need to monitor more strictly the rules of the third package - Better oversight of leased aircraft from third countries - Longer concession periods and simplified publication requirements for public service obligations - Move from a two-step procedure to a one-step procedure with Commission approval for traffic distribution between airports 	<p style="text-align: center;">-/=</p> <p style="text-align: center;">+</p> <p style="text-align: center;">+</p> <p style="text-align: center;">-/=</p>

Social impact

The ‘change’ option has two main effects on employment.

The stricter supervision of the air carriers’ financial conditions and the stricter requirements concerning wet-leasing will render employment more stable and less precarious in the sector.

As some of the proposed measures might lead to higher traffic levels, employment in the sector might increase, but the magnitude of this increase is probably limited.

Social impact table synthesis

Impacts on:	Proposed revision as compared with the no-change option	Impact
Employment and labour markets	- The proposed measures might lead to higher employment levels as they favour more air traffic	+
Standards and rights related to job quality	- The stricter supervision of the air carriers’ financial health and of wet-leasing will render jobs more stable and less precarious	+
Social inclusion and protection of particular groups	- N/R	
Equality of treatment and opportunities, non discrimination	- N/R	
Private and family life, personal data	- N/R	
Governance, participation, good administration, access to justice, media and ethics	- N/R	
Crime, Terrorism and Security	- N/R	
Access to and effects on social protection, health and educational systems	- N/R	

Environmental impact

The environmental impact of the ‘change’ option is limited and is mainly linked to the possible increase of traffic compared to the no-change option.

A small reduction in the environmental impact may arise from the avoidance of public service obligations on short routes that are served by efficient rail services.

The revision of the third package pursues no environmental objectives. It must be recalled that the environmental impact is already being addressed by distinct

Commission initiatives¹⁰ in the framework of the Sustainable Development Strategy and the European Climate Change Programme.

Environmental impact table synthesis

Impacts on:	Proposed revision as compared with the no-change option	Impact
Air quality	- Higher traffic levels might impact air quality directly and through traffic to access airports. There will be limited reductions where aviation PSOs are avoided because alternative transport services can be provided.	-/=
Water quality and resources	- N/R	
Soil quality or resources	- N/R	
The climate	- Higher traffic levels will be accompanied by higher climate change emissions. There will be limited reductions where aviation PSOs are avoided because alternative transport services can be provided.	-/=
Renewable or non-renewable resources	- N/R	
Biodiversity, flora, fauna and landscapes	- N/R	
Land use	- N/R	
Likelihood or scale of environmental risks	- N/R	
Mobility and the use of energy	- A number of the changes may result in increased mobility which is likely to lead to increases in energy consumption.	-
Environmental consequences of firms' activities	- N/R	

¹⁰ "Reducing the Climate Change Impact of Aviation", Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, COM(2005) 459 of 27 September 2005.

7. COMPARING THE OPTIONS

The impact of the ‘change’ option on the specific objectives is summarized in the following table.

Specific objectives	Impact of change option on specific objective	Comments
Ensure the sound overall financial health of the Community air carriers, reduce the bankruptcy risk	++	Stricter monitoring of the operating licence
Avoid social dumping	+	Stricter conditions for wet-lease
Avoid competition distortions	++	Homogenous application of rules regarding operating licence, PSO, traffic distribution, 6 th freedom flights
Enhance price competition and price transparency	++	Non-discrimination on the basis of the place of residence and publication of all inclusive fares and rates
Avoid discrimination of EU carriers on the basis of nationality	++	The ‘change’ option removes still existing restrictions on the internal market (mainly access to third country routes)

The ‘change option’ appears to present a balanced approach that offers clear economic and social advantages over the ‘no change’ option. It reinforces the internal market by accelerating market consolidation and thereby creating a competitive environment for European air carriers capable of taking on their international competitors. It contributes to the objectives of the Lisbon strategy.

It presents clear advantages for passengers by enhancing the market forces that lead to lower fares, better services offered and higher safety levels.

The negative but very limited environmental impact of the proposed measures can be compensated by other measures taken in order to reduce the environmental impact of aviation.

Therefore, the Commission makes a proposal according to the described ‘change’ option.

8. MONITORING AND EVALUATION

The Commission will continuously monitor the developments in the internal aviation market and evaluate on a regular basis the impact of the changed legislation.

The impact on the financial health of Community carriers will be assessed on the basis of their operating results, of the evolution of the bankruptcy rate and the number of passengers being stranded or suffering financial loss from bankruptcies.

The reduction of competition distortions will be assessed on the basis of complaints received by the Commission and on observation of the market, in particular with regard to access to third countries, evolution of the number of routes served under monopoly, number and characteristics of routes with public service obligations and the transparency and non-discrimination of traffic distribution rules.

The frequency of wet-lease agreements of third country aircraft will give an indication of the impact of the measures on possible social dumping practices.

Finally, observation and analysis of fares and selling practices should reveal in how far passengers enjoy more transparent and non-discriminatory fares and how price competition is enhanced by these measures.