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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 8 June 2017

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY
OF THE IMPACT ASSESSMENT Accompanying the document proposal
for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL on safeguarding competition in air transport, repealing
Regulation (EC) N° 868/2004

Delegations will find attached document SWD(2017) 183 final.

Encl.: SWD(2017) 183 final



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SWD(2017) 183 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on safeguarding competition in air transport, repealing Regulation (EC) N° 868/2004

{ COM(2017) 289 final }
{ SWD(2017) 182 final }

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| Executive Summary Sheet |
| Impact assessment on the revision of Regulation (EC) No 868/2004. |
| A. Need for action |
| What is the problem and why is it a problem at EU level? |
| Stronger global competition and the absence, for the most part, of sufficient rules on fair competition at multilateral and bilateral level have led to concerns regarding alleged discriminatory practices and selective subsidies originating from third countries. The EU's current tools are not adequate to investigate and prevent such practices. |
| What should be achieved? |
| The main policy objective is to ensure fair competition between air carriers by effectively protecting European air carriers from unfair practices by third countries and third country entities. |
| What is the value added of action at the EU level (subsidiarity)? |
| Modifications to Regulation (EC) No 868/2004 can only be done at the EU level. One new central element contained in the proposed Regulation is action in cases of 'violation of applicable international obligations'. Rights vis-à-vis third countries, under agreements to which the Union is a party, cannot be exercised separately by individual Member States. |
| B. Solutions |
| What are the various options to achieve the objectives? Is there a preferred option or not? If not, why? |
| A) Baseline scenario: no policy change. B) Increased international efforts at the global level aiming for a multilateral legal framework for fair competition in aviation and inclusion of expanded fair competition clauses in Air Service Agreements (ASAs). C) Major changes to the regime contained in Regulation (EC) No 868/2004 which would be replaced by a new comprehensive and effective EU legal instrument. D) Replacement of Regulation (EC) No 868/2004 by a new, more effective EU legal instrument combined with increased international efforts at global level and inclusion of fair competition clauses in ASAs (preferred option) |
| What are different stakeholders' views? Who supports which option? |
| The Council, the European Parliament, several Union air carriers and labour organisations support replacing Regulation 868/2004 with a more effective instrument. |
| C. Impacts of the preferred option |
| What are the benefits of the preferred option (if any, otherwise of main ones)? |
| The preferred option D is expected to bring the strongest positive impact. The added value of combined EU action at all levels should benefit the EU air transport sector by increasing revenues. It should also contribute to the growth of employment at Union air carriers, airports and related industries. |
| What are the costs of the preferred option (if any, otherwise of main ones)? |
| Costs incurred by the administration of complaints and diplomatic negotiations are expected to be offset by the positive impacts on the EU aviation sector and the EU economy. |
| What are the impacts on SMEs and competitiveness? |
| No significant overall direct impacts on SMEs, positive impact on competitiveness of the EU airlines. |
| Will there be significant impacts on national budgets and administrations? |
| No. |
| Will there be other significant impacts? |
| In the long term, preserving competition should ensure the affordability and the quality of air services. |
| Proportionality? |
| The preferred policy option does not go beyond what is needed to achieve the policy objectives. |
| D. Follow up |
| When will the policy be reviewed? |
| An evaluation will be carried out 5 years after the entry into force of the new rules. |