



Advantages and Disadvantages of Becoming a Regulated Entity

Listed below are some of the advantages and disadvantages of airline service companies becoming “regulated entities”. As service companies are already regulated by certain federal and state laws and airport regulations and permits, for the purpose of this analysis, we define regulation as the requirement of certification by a federal agency (FAA or TSA) before providing (or continuing to provide) any one or more of the services currently being performed by airline service companies. This is not intended to be a comprehensive list. This list does not purport to account for economic, business, or operational issues, but is merely for legal reference. Whether certified or not, airline service companies are already regulated, since such companies may be governed by Minimum Standards at some airports, are regulated by airport permits, by airport leases, by the requirement to obtain airport badges and customs seals, and by having to comply with regulations governing airlines. In addition, OSHA and EPA regulations govern service company activities.

This analysis is limited to the issue of industry certification and does not discuss the benefits of CCSP certification (we see little disadvantage to CCSP certification and many opportunities). We do not draw any conclusions about whether airline service companies should seek to become regulated as an industry, but hope that this may be a topic at the May meeting. Let us know if you have any questions.

Advantages of Certification

1. Certified companies have access to direct governmental security directives and other governmental information.

Analysis: While direct access to governmental security directives is important, providers may be able to gain access through other means such as airline customers or associations. There may be penalties for the unauthorized release of confidential information.

2. Ability to offer services that ordinarily can be provided by only a regulated entity.

Analysis: This could be important if the provider is willing to take the insurance risk. However with the CCSP program, an airline service company may have the option of becoming a regulated entity separate and apart from its other operations. By operating in a regulated environment, it may be difficult or time consuming for new entrants to earn the certification to enter and compete in the business. This may be the most valuable advantage.

Disadvantages

1.: May require STA (security threat assessments) and other background checks on a wider range of individuals, including those who work off-airport and/or who work at non-US locations as well as individuals who work at entities who share space or have access to air cargo areas operated by others—all at greater cost to the certified entity.

Analysis: This is uncertain. Perhaps this is one issue that can be negotiated with regulating entity.

2. Vagueness and questions of interpretation raised by regulations

Analysis: Compliance with regulations has become a way of life and an ordinary and expected business expense.

3. Compliance costs for mandatory certification will significantly increase the cost of compliance which may not be able to be passed onto customers.

Analysis: Cost/ benefits analysis may show that extra income earned by providing additional services outweigh additional costs.

4. A loss of authority for whatever reason can have a devastating effect on business and put investment in company at risk. While in most instances, a withdrawal of authority can be appealed, it is probably the government who will set the standards. Too many violations could cause a company to lose its status and put at risk its status at an airport or country-wide.

Analysis: Penalties can be discussed with regulating entity before agreement to become regulated.

5. Risk of fines and penalties. These could be similar to TSA, CBP and OSHA fines which have increased over the years. Unintentional mistakes can lead to undeserved reputation.

Analysis: These can be reduced by better management and negotiations or appeals.

6. Increased costs in obtaining and maintaining authority. These costs will not be reimbursable.

Analysis: Cost/benefits analysis may show that extra income earned by providing additional services outweigh additional costs.

7. Increased manpower costs for training, oversight and management.

Analysis: Cost/ benefits analysis may show that extra income earned by providing additional services outweigh additional costs.

8. Small handlers would find it too expensive or difficult to become certified. The regulation of the ground handling industry could become an issue with the FAA which may oppose these efforts since they may collide with the Sponsor Assurances prohibitions on Exclusive Rights and Unjust Discrimination.

Analysis: This may be beneficial if it prevents undercapitalized companies without effective safety programs from operating on the ramp.