



Safety in a Liberalized Market for Marine Services: European cases

Friday, 2nd March 2012

Venice Port Authority

ELEMENTS TO BE CONSIDERED AT PRESENT

Increasing of request of safety and security levels

Increase in Port State's obligations and public opinion's pressure for safety of marine activities and environment protection

Pressure to increase investments (structures and technologies) and costs for services related safety of port activities

Increasing of competition between ports

Globalization leads to a more intense competition between regional systems, stressing competition between port systems

Pressure to minimize costs for port users and final consumers

**New
Technologies**

conflict



Safety increase

Competition pressure
(cost reduction)

New technologies

How to make the most efficient use of the (limited) available resources (structural, human, financial and technological) for safety related port services

**The question:
WHICH IS THE BEST
LEGAL FRAMEWORK
FOR THIS GOAL?**

1

WHO DECIDES ON
SAFETY STANDARDS?

2

WHO DECIDES ON THE
ORGANIZATION OF
TECHNICAL NAUTICAL
SERVICES?

3

WHO DECIDES THE
PRICES OF TECHNICAL
NAUTICAL SERVICES?

THE
PRESENT
SITUATION
IN THE
ITALIAN
LAW
(Navigation
Code and
Law n.
84/1994)

No precise general
standard
The Local (in some
cases Central)
Maritime Authority
Evaluation highly
discretionary

Compulsory use: the
Ministry of Infrastructures
(pilotage); the Local Maritime
Authority (Harbour Master)
(towage)
High discretionality
organization: the Local
Maritime Authority in
agreement with the Port
Authority: in case of
disagreement: Ministry of
Infrastructures
Real situation : Monopoly
by central (pilotage) or
local (towage) decision

General Criteria : the
National Ministry of
Infrastructures, supported
by representatives of
Maritime and Port Authorities
and by representatives of
the industries involved

A possible role for the new
National Transport Authority
(D.L. n. 201/2011, art. 37)

Decisions : in each port by
the Local Maritime Authority

1

WHO DECIDES
SAFETY
STANDARDS?

2

WHO DECIDES THE
ORGANIZATION OF
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WHO DECIDES THE
PRICES OF
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NAUTICAL
SERVICES?

THE EU
COMMISSION
PROPOSAL
COM (2004)
654 final

“Member States
or competent
authorities
appointed by them”
(art. 5)

Authorisation system
based on discretionary
criteria defined by the
competent National
Authority applied in a
non discriminatory and
transparent procedure
(art. 7, 8 and 9)

Recognition (in principle)
of self-handling

Reference is made to
the possibility for the
competent Authority to
include “price” among
the “public service
requirements” to be
fulfilled for obtaining
the authorisation (art. 7,
par. 3)

1

WHO DECIDES
SAFETY
STANDARDS?

Needs to promote
Uniformity:
at the highest
possible level:

- International (IMO)

- European Union :
Directive 2005/65/CE
only as a first step
room for a EMSA role

- only if not practicable:
National

Control (important!):
Local Maritime Authority

2

WHO DECIDES THE
ORGANIZATION OF
TECHNICAL
NAUTICAL
SERVICES?

The general rule (EU):
liberalized markets and
self-handling wherever possible

Restrictions at the minimum
level needed (PSO or transparent
procedure for the selection of the
public service provider)

Decision: at the Local (better:
Port System) Level on a case by
case basis by the Local Maritime
Authority (for safety matters) in
agreement with the Local Port
Authority (for development
matters)

In case of disagreement:
EU or National Transport Authority

3

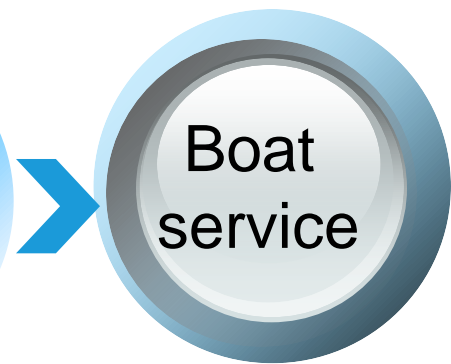
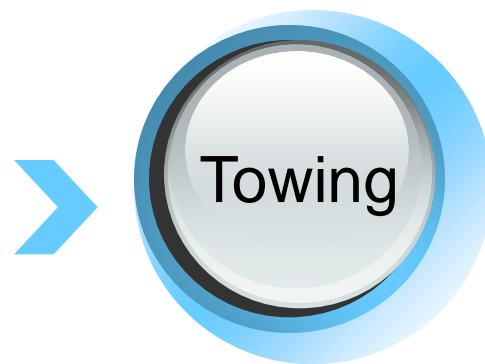
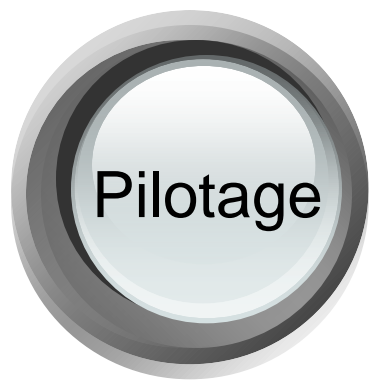
WHO DECIDES THE
PRICES OF
TECHNICAL
NAUTICAL
SERVICES?

The general rule (EU):
Price cap (no cost plus)
Flexible approach
(possibility to differentiate
on a transparent basis
(e.g.: peak-time services;
advanced reservation of
the service)

Decision (approval):
Local (better: Port System)
Level on a case by case
basis by the Local
Maritime Authority (for
safety matters) in
agreement with the Local
Port Authority (for
development matters)

In case of disagreement:
EU or National Transport
Authority

THE
POSSIBLE
NEW
APPROACH



-Possibility of self-handling

PEC – Pilote Exemption Certificate

- Possibility of self-handling by shipowners and by terminal operators

MEC (?)

EU Commission Communication on a European Ports Policy 2007: weaker link to port safety

-Liberalization when local situation permits.

- Possibility of self-handling (by shipping companies and by terminal operators?)
-PSP financed by all operators (including self handlers)

- No need of public service regulation

No mention in EU documents