

**Committee of the Regions****COTER-V-043****104th plenary session, 28-29 November 2013****OPINION****EU Guidelines on State Aid to Airports and Airlines**

THE COMMITTEE OF THE REGIONS

- agrees with the Commission that there is an urgent need for action regarding the legislative framework governing public support for airports. This action must be consistent with the aims of the modernisation programme, which will provide Member States with an updated, streamlined and efficient set of rules protecting competition and the single market for the 2014-2020 period. Accordingly, reiterates the recommendations set out in the opinion on EU State aid modernisation;
- reiterates, with regard to the Commission's communication on European airport policy, the importance of regional airports, which considerably alleviate the mounting congestion of the major hubs – a cause of significant nuisance to local populations and the environment – and at the same time support tourism in the EU and provide SMEs with market access, giving them a competitive edge;
- considers that the Commission should focus on major airports, and that support for small airports averaging less than 300 000 passengers each year should fall outside the scope of State aid as it can have no impact on trade between Member States and because these airports are structurally unable to cover capital and operating costs;
- points out that small airports have structural, competitive disadvantages which prevent them compensating for their fixed costs, either through commercial revenue, which depends strongly on the number of passengers, or by increasing the airport fees payable by airlines. The latter approach would make the airport even less attractive, when it is already penalised by a small catchment area and inadequate connections, and so encourage airlines to turn to larger airports;
- calls for support for plans to convert existing aviation infrastructure in regional centres, which will be coordinated with the development of regional transport intermodality; concurs on the urgent need for swift EU action to foster integrated multimodal travel;
- points out that the EU's strict control of State aid is unique throughout the world. European aviation cannot be globally competitive if it disregards the massive amounts of public funding still allocated to airports infrastructure and airlines in the United States, Asia and the Middle East. This places the EU at a dangerous competitive disadvantage.

Rapporteur

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Reference document

Opinion of the Committee of the Regions – EU Guidelines on State Aid to Airports and Airlines

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

General comments

1. notes that in the context of the overall process of modernising State aid rules initiated by the European Commission in 2012¹, air transport was one of the first sectors considered to need an updated legislative framework governing public funding, as regards infrastructure and operating aid to airports, and start-up aid to airlines²;
2. points out that in 1994³, the Commission introduced the first rules on State aid for civil aviation, following the liberalisation of air transport. The sector became significantly more competitive once it had been gradually liberalised, creating the need for regulation to ensure that competition could develop on a level playing field;
3. points out that in 2005⁴, the consolidation of air transport liberalisation and rapid developments in the sector over the next few years, including the emergence of the new business model of low cost airlines based in small airports, made it necessary to update the existing legislative framework by means of new Commission guidelines on public funding of airports and airlines operating in regional airports;
4. notes that, after only eight years, developments in the European market have revolutionised air traffic volume. This is particularly due to the exponential growth in the market share of low cost companies, with a business model centred on small, decentralised regional airports rather than traditional national airports and major hubs;
5. agrees with the Commission that there is an urgent need for action regarding the legislative framework governing public support for airports. This action must be consistent with the aims of the modernisation programme which will provide Member States with an updated, streamlined and efficient set of rules protecting competition and the single market for the 2014-2020 period. Accordingly reiterates the recommendations set out in the opinion on EU State aid modernisation⁵;

1 COM(2012) 209 final.

2 Public consultation begun on 7 April 2011 and closed on 7 June 2011.

3 94/C 350/07.

4 2005/C 312/01.

5 CdR 1528/2012.

6. welcomes the public consultation launched by the European Commission (stage one on 6 June 2011 and the second and current stage on 3 July 2013) to gather the views of all stakeholders regarding the review of the current legislative framework and the proposal for new guidelines; supports the Commission's approach, which seeks to establish fair competition between the various operators in the European aviation sector, irrespective of their business model, to enable the European aviation sector to be successful and competitive;
7. nonetheless regrets that European legislation on competition, which is exclusively a Commission competence, and the over-abundance of soft law prevent local and regional authorities from making a real contribution in key sectors of regional and local development, such as regional airports and regional development policies;
8. alerts the Commission to the diversity of airport situations in Europe, and particularly the situation of the outermost regions, whose isolation and remoteness prevents the airports located there, irrespective of the passenger traffic recorded, being financially viable or competing with other EU airports or, even less, posing any threat to other, alternative modes of transport, whether inland or rail;
9. points out that in these sectors, local and regional authorities are key players in territorial development and growth policies, partly via State aid, and are very familiar with the local economy owing to their close ties to economic and social actors. European legislation cannot overlook these economic and social actors if it genuinely wants to support the regions and help integrate them into the single market and build territorial cohesion across the EU;
10. recalls the arguments set out in the opinion on *The regional State aid guidelines for 2014-2020*⁶: when proposing rules on State aid, the Commission should ensure advance and systematic consultation of the Committee of the Regions (CoR)⁷. This will provide the Commission with the information needed for an impact assessment in compliance with the principle of multilevel governance⁸;

Public funding of infrastructure

11. together with the EESC⁹, reminds the Commission that regional airports have assumed a central position in European aviation: in 2010, around 60% of EU airports served fewer than a million passengers. Therefore hopes that this central position will be reflected in the new guidelines;

⁶ CdR 2232/2012.

⁷ CdR 76/2005, p. 1.

⁸ Cfr. CdR 2232/2012, points 18-20.

⁹ 2012/C 299/10.

12. stresses the importance of regional airports in promoting local development and improving accessibility, thus contributing to the objectives of territorial cohesion and economic growth, and employment. Accessibility (e.g. proper flight connections) is crucial for enabling more sparsely populated areas of the EU and the outermost regions (and those which are wholly dependent on air transport) also to play an active part in the single market;
13. considers that this role is particularly pertinent and strategic at the current juncture, when the EU is struggling to exit the economic crisis. Since its effects first became apparent in 2008, the current crisis has left European and national authorities no option but to take vigorous and decisive action to reverse economic trends. The European Commission has recognised and upheld this need, approving the frequent use of derogation 107.3b) of the Treaty on the Functioning of the European Union¹⁰. In difficult economic times it is therefore especially important to promote improved accessibility to all parts of the market;
14. reiterates, with regard to the Commission's communication on European airport policy, the importance of regional airports¹¹, which considerably alleviate the mounting congestion of the major hubs – a cause of significant nuisance to local populations and the environment – and at the same time support tourism in the EU and provide SMEs with market access, giving them a competitive edge¹²;
15. therefore considers that the sustainability and efficiency of air transport in the EU is largely dependent on an appropriate network of small airports;
16. shares the European Commission's concerns¹³ regarding the surge in infrastructure requirements dictated by the Europe 2020 strategy. This strategy calls for modern, appropriate and flexible networks in the energy, ICT and transport sectors to support Europe's switch to a knowledge-based, low-carbon, highly competitive economy;
17. also agrees that the market is not always able to deliver the infrastructure that Europe needs, and that without public action many of the investments needed to carry out the strategy's objectives would be impossible or deferred until after 2020;
18. welcomes the Commission's call to increase EU infrastructure investment. The Commission estimates that between 2010 and 2020, over EUR 1.5 thousand billion will be needed to meet current transport needs, highlighting the strong link between geographical accessibility and territorial economic growth;

10 Cfr. the measures adopted by the European Commission in response to the economic and financial crisis since 2008: http://ec.europa.eu/competition/state_aid/legislation/temporary.html.

11 COM(2011) 823 final.

12 COM(2006) 819 final.

13 SEC(2011) 391 final.

19. notes the principles of ECJ case-law in Leipzig v. Halle¹⁴, but draws attention to the specific circumstances shaping them. Therefore calls on the Commission to ensure that its guidelines take account of the wide range of public support for infrastructure. An element of public sector participation, in addition to private capital, is often essential to ensure the success of larger infrastructure projects such as airports whether their end use is for commercial purposes or not;
20. believes that absolute passenger numbers should be an appropriate criterion for judging the potential viability of an airport as an infrastructure facility and for classifying it only as a general rule, and calls for greater flexibility in the compatibility rules so that the particular circumstances of each case can be taken into account;
21. points out that, at a time when the EU is exiting the crisis, it would be wise to give priority to the positive impact of public funding of infrastructure on cohesion, growth and employment and take this into due account alongside competition rules in the evaluation process;
22. takes note of the Market Economy Operator principle used as a yardstick by the Commission, but is concerned about the consequences of using the principle for infrastructure where the State is historically and institutionally irreplaceable. Given the sheer volume of investments needed and the impossibility of passing on refinancing costs entirely to the public using the infrastructure, most infrastructure investment is in principle out of the question for private investors. The premise that the State can be compared to a private operator and act without any regard for social, regional-policy or sectoral issues, is unrealistic and detrimental to the public good when applied to territorial infrastructure projects which are an essential part of the State's role;
23. asks the Commission to take the view that public support for infrastructure construction and development¹⁵ and to compensate for the accessibility deficit affecting their residents often constitutes fully-fledged economic policy measures and is consequently not State aid but public interest measures. Therefore urges the Commission to continue modernising the rules on State aid, with due regard for the fundamental principles underpinning public policy and the institutional role of the State; points out that airports, like roads and railways, have a public infrastructure function;

Small and micro airports which do not come under the rules on State aid

24. urges the Commission to continue the modernisation process with a view to genuine simplification. It should focus its attention on those circumstances and events most prone to distort competition and which are a real threat to the integrity of the single market;

¹⁴ Judgment of the European Court of Justice of 19 December 2012 — *Mitteldeutsche Flughafen AG, Flughafen Leipzig/Halle GmbH*/European Commission, Federal Republic of Germany, *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen ev.*

¹⁵ 94/C 350/07, p. 1.

25. endorses the need for rules guaranteeing a level playing field in the European Economic Area for all businesses operating in the air transport sector. These rules should limit distorting public action as far as possible and avoid subsidy races between Member States;
26. considers however that the Commission should focus on major airports, and that support for small airports averaging less than 300 000 passengers each year should fall outside the scope of State aid as it can have no impact on trade between Member States and because these airports are structurally unable to cover capital and operating costs. Points out that the Commission has already recognised the appropriateness of the threshold of 300 000 passengers in its *Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest*, limiting this, however, to ports and to air links to islands, and establishing a lower threshold for SGEIs as regards airports. Therefore calls on the Commission to take a more consistent and simplified approach to the thresholds laid down in the various legal bases and thus to amend the proposed new guidelines – specifically points 80(1) and 80(2) on airport categorisation and point 92 on aid intensity, to which a category should be added of airports with fewer than 300 000 passengers – as well as Article 2(1)(e) of the aforementioned Decision;
27. welcomes the Commission's focus on airports with a very low capacity in terms of annual passengers traffic and its recognition of the fact that these airports, right up to those serving five million passengers per annum, are often structurally unable to cover capital and operating costs without an element of public support. At the same time, regrets that it does not go on to focus equally on criteria for the compatibility of aid to these airports¹⁶;
28. points out that these airports have the following features:
 - a limited volume of passengers,
 - the relative inaccessibility of the regions in which the airports are located because of their remoteness, the terrain or inadequate infrastructure for alternative connections with the surrounding areas,
 - small catchment areas and the resulting limited prospects for development;these features make the airports purely local, with no cross-border pull factors;
29. notes that in many cases, it would be either difficult or impossible for other airports or other modes of public transport to replace these small airports in terms of transport capacity: redirecting small-airport passengers would have absolutely no impact on the volume of traffic in alternative airports;

¹⁶ Cfr. points 80(1) and 92 of the draft Commission communication on *EU guidelines on State aid to airports and airlines* (2013).

30. therefore considers that funding these airports does not constitute State aid in the meaning of Article 107(1) of the Treaty on the Functioning of the European Union. This is because it is quite unable to distort competition and affect trade between Member States and therefore should not fall within the scope of the new guidelines;
31. proposes¹⁷ that the up to 10 year transitional period, during which the European Commission considers State aid for the operating of airports to be compatible with the Treaties, be applied only to airports serving more than a million passengers annually. The proposed ban should not result in the widespread closure of smaller airports. Also proposes that in the table of investment aid ceilings, the category of airports serving less than a million passengers should be renamed to 300 000 to 1 million passengers each year;
32. agrees with the Commission that duplication of unprofitable airports and creation of excess capacity is to be avoided. However, believes that when there are no legal grounds for considering funding to be State aid (as in the case of small local airports), these recommendations should not be subject to rules on State aid; these rules are intended to prevent distortion of competition between Member States with a view to preserving the integrity of the single market, and not to assess the wisdom of governments' choices in the area of public spending;

Services of General Economic Interest

33. notes that the Commission considers the building and operation of airports as a special case in which compensation can be granted for assuming public service obligations, but thinks the scope of application far too narrow;
34. thinks it is legitimate to consider maintaining airports not only in areas that without them would be cut off from the rest of the EU to a degree that would impede their social and economic development;
35. suggests that in principle Member States and their regional and local authorities have autonomy in determining a role of general economic interest and that the Commission can only scrutinise this in the event of patent errors;
36. takes the view that the construction and operation of an airport entails a general interest function above all when it so improves a region with weak infrastructure as to give it the prospect of economic development;

¹⁷ Ibid. p. 102.

37. considers it necessary to implement a cooperation policy for European cross-border regions for the coordination and/or creation of regional airports that serve regions encompassing more than one country;

Operating aid for airports serving between 300 000 and 1 million passengers

38. notes that the European Commission recognises that operating aid for small regional airports hinges largely on their inability to cover their own operating costs. The Commission also considers that it is possible, over a maximum of ten years, to encourage these airports to switch to a more market-oriented management style which will enable them to generate sufficient resources to cover their operating costs;
39. has strong doubts that such a switch could ever occur below the threshold of a million passengers per year, much less in the decade anticipated by the Commission, owing to the market features of small regional airports;
40. in principle endorses the Commission's market-oriented approach, whereby public resources are allocated on the basis of efficient-airport models avoiding the duplication of inefficient airports, and competition between airports and airlines is preserved;
41. however, cannot support the Commission's method of achieving these objectives, which fails to acknowledge the fact that market dynamics vary hugely depending on the size and features of airports and so companies managing airports only appear to be operating in the same market;
42. draws attention to the conclusions of a recent analysis by the Airports Council International (ACI)¹⁸: 80% of an airport's costs are fixed and independent of passenger numbers, tied to infrastructure and operating costs which are largely the result of safety requirements. This means that the cost per passenger for a small airport is much higher than for a large airport which can spread the fixed costs over a large number of passengers, and makes it much harder to break even;
43. also points out that small airports have structural competitive disadvantages which prevent them compensating for their fixed costs, either through commercial revenue, which depends strongly on the number of passengers, or by increasing the airport fees payable by airlines. The latter approach would make the airport even less attractive, when it is already penalised by a small catchment area and inadequate connections, and so encourage airlines to turn to larger airports;
44. points out that many small airports serving between 300 000 and 1 million passengers per year tend to remain small owing to handicaps in the areas where they are located (island or

¹⁸ *Airports & State Aid: How to protect both growth & competition*, ACI, 2013.

mountain areas, decentralisation, inadequate infrastructure, limited intermodal connections, etc.). Nonetheless, they make up 20%¹⁹ of the main and general TEN-T network, and are key to the future of trans-European networks and the Europe 2020 strategy's connectivity goals;

45. points out that recent studies²⁰ have shown that compared to the overall losses of airports serving less than 1 million passengers per year, amounting to EUR 445 million, these same airports contribute EUR 16.15 billion annually to EU GDP and provide 265 000 jobs;
46. therefore considers that the new guidelines must not ban operating aid for airports serving less than 1 million passengers per year, or for airports in the outermost regions, even after a period of up to ten years. This aid is the only way to curb distortions arising from the structural handicaps described above, and is fully justified by the positive economic externalities it generates;
47. calls on the Commission to recognise that the benefits to EU citizens of public support for small regional airports have priority over narrowly financial and economic considerations;
48. reminds the Commission of the positive externalities generated by a good network of small regional airports: it increases national and particularly trans-European mobility as competition drives down ticket prices and it reduces costs, it consolidates social, cultural and territorial cohesion in the EU;
49. agrees on the need to take steps to ensure that public support for small airports does not lead to cross-transfers to beneficiaries other than airport infrastructure;
50. proposes that the end of the transitional period should be considered as a "mid-term review" that did not exclude continuing operating aid beyond the transitional period if the conditions for it persisted. Further proposes that, in line with arrangements for investment aid, operating aid could also be proportionate to the airport's capacity and potential steps to boost management efficiency which cannot and must not be strictly set at an annual 10%, without distinction, for all airports;
51. considers that the maximum period of 24 months for establishing new routes should not be consecutive, as the business model of seasonal flights, which are frequently tied to tourist flows, is very common in small regional airports;

Investment aid for airports

52. is concerned that the proposed strict aid quotas linked to size proposed by the Commission for investment costs do not meet the specificities of the different cases, and therefore calls on the

19 Ibid.

20 Ibid.

Commission to grant financial aid in a flexible manner, in line with its previous practice, in cases where an airport serves a common objective (especially transport links or regional development), is likely to be profitable over the long term according to traffic forecasts and based on a business plan, and guarantees non-discriminatory access for passengers and airlines; also considers inadequate the proposal to make State investment aid for these airports, for which there is a ceiling of 25%, conditional on repayment of the aid should the investment be successful; proposes that the 25% ceiling should not be tied in its entirety to the form of repayable advances;

53. draws attention to the results of sector studies²¹, which show that airports achieve competitive economies of scale only once they have passed the threshold of 5 million passengers per year. As the Commission itself has acknowledged, airports with a capacity of 3 to 5 million passengers per year do not always manage to cover all of their costs;

Funding airport intermodality

54. calls for support for plans to convert existing aviation infrastructure in regional centres, which will be coordinated with the development of regional transport intermodality; concurs on the urgent need, expressed in the 2011 White Paper on transport policy²², for swift EU action to foster integrated multimodal travel, particularly rail-air co-modality, and calls on the Commission to continue modernising State aid so that the new rules facilitate public action correcting the dangerous infrastructure deficiencies and modal fragmentation in the air transport system, and to consider such action to be an integral part of a public policy that supports the mobility of Europeans;

The challenges of global competition

55. points out that aviation plays a fundamental role in the European economy, as regards both Europe's people and its businesses: it provides over 5 million jobs and contributes EUR 365 billion to EU GDP (2.4%). It makes a key contribution to economic growth, employment, tourism, people-to-people contacts and the regional and social cohesion of the EU, and is thus pivotal in connecting Europe to the rest of the world;
56. agrees that competition must not be distorted by unfair practices inside or outside the EU. Asks the Commission to ensure that the efforts to complete the single market do not hobble the EU's capacity to face up to the challenges of global competition - including competition from countries which are now among our chief competitors, and against which the Commission has noted a worrying and increasing loss of competitiveness in European aviation²³;

21 Ibid.

22 COM(2011) 144 final.

23 COM(2012) 556 final.

57. considers that the competition for new routes is not confined to Europe but it is global. If peripheral regions are to remain or become economically competitive then support for improved connectivity is needed to share the inherent risk in the start-up of new routes. Such links outwith the EU are increasingly important for the maintenance and development of connections with existing and emerging markets and the direct economic benefits these can deliver and they, under certain conditions, could be also be supported;
58. points out that the EU's strict control of State aid is unique throughout the world. European aviation cannot be globally competitive if it disregards the massive amounts of public funding still allocated to airport infrastructure and airlines in the United States, Asia and the Middle East. This places the EU at a dangerous competitive disadvantage: the modernisation process cannot ignore this scenario and the EU cannot keep up a restrictive approach (particularly as regards public aid for infrastructure) which may well further undermine the competitiveness of European aviation and the EU economy as a whole.

Brussels, 28 November 2013

The President
of the Committee of the Regions

Ramón Luis Valcárcel Siso

The Secretary-General
of the Committee of the Regions

Gerhard Stahl

II. PROCEDURE

Title	EU Guidelines on State aid to airports and airlines
Reference(s)	
Legal basis	Article 307 TFEU
Procedural basis	Rule 39(b) of the CoR's Rules of Procedure
Date of Council/EP referral/Date of Commission letter	N/A
Date of Bureau/President's decision	2 July 2013
Commission responsible	Commission for Territorial Cohesion Policy (COTER)
Rapporteur	Catiuscia Marini (IT/PES), President of the Region of Umbria
Analysis	31 July 2013
Discussed in commission	26 September 2013
Date adopted by commission	26 September 2013
Result of the vote in commission (majority, unanimity)	Majority
Date adopted in plenary	28 November 2013
Previous Committee opinions	<ul style="list-style-type: none"> • Own-initiative opinion on the <i>Draft Community guidelines on financing of airports and start-up aid to airlines departing from regional airports</i> (CdR 76/2005)²⁴ • Outlook opinion on <i>The capacity of regional airports</i> (CdR 393/2002)²⁵ • Own-initiative opinion on <i>Low-cost airlines and territorial development</i> (CdR 63/2004)²⁶ • Opinion on <i>The regional state aid guidelines for 2014-2020</i> (CdR 2232/2012)²⁷ • Opinion on <i>EU state aid modernisation</i> (CdR 1528/2012)²⁸
Date of subsidiarity monitoring consultation	N/A

²⁴ [OJ C 31, 7.2.2006, p. 23.](#)

²⁵ [OJ C 256, 24.10.2003, p. 47.](#)

²⁶ [OJ C 318, 22.12.2004, p. 7.](#)

²⁷ [OJ C 62, 2.3.2013, p. 57.](#)

²⁸ [OJ C 17, 19.1.2013, p. 25.](#)