



European Economic and Social Committee

CCMI/095
Revision of aviation
and airport guidelines

Brussels, 11 July 2012

OPINION

of the
European Economic and Social Committee
on the
Revision of 1994 and 2005 EU aviation and airport guidelines
(additional opinion)

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On 14 July 2011, the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an additional opinion on the

Revision of 1994 and 2005 EU aviation and airport guidelines.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 June 2012.

At its 482nd plenary session, held on 11 and 12 July 2012 (meeting of 11 July), the European Economic and Social Committee adopted the following opinion by 143 votes to 2 with 1 abstention.

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1. Conclusions

- 1.1 The European Commission envisages reviewing the 1994 Guidelines on the application of Articles 92 and 93 of the EC Treaty to state aids in the aviation sector, on the one hand, and the 2005 EU Guidelines on financing of airports and start-up aid to airlines departing from regional airports (further referred as Aviation Guidelines).
- 1.2 Since 2005 Member States have refrained from notifying the Commission of many instances in which airports or local communities did grant subsidies.
- 1.3 The EESC shares the view of major stakeholders, that review of the current Aviation Guidelines is absolutely necessary and in order to create a proper level playing field it has to be done without any delay. Development of regional airports is important for economic growth and territorial cohesion and requires clear rules governing state aid.
- 1.4 The EESC is of the opinion, that it is necessary to prepare a study, which will present the current state of state aid and similar practises as far as implementation of Aviation Guidelines is concerned. The study (apart from analysis of current practices in this field) should also provide information on the amount and type of aid granted, their impact on real economic development and their quantitative and qualitative impact on employment.
- 1.5 In the EESC's recommendations concerning revised Aviation Guidelines presented in para. 5 of this opinion the Committee:
 - advocates the need for a standardised EU legal framework for the entire aviation sector, which prevents uncontrolled subsidy practices and ensures a level-playing field for all market participants also at the local level,

- agrees, that a general principle, that private investment cannot be considered as State aid. At the same time, a public operator can act as a private investor if the investment is commercially justifiable,
- recommends, that state aid for investments in airport infrastructure and start-up aid for airlines should only be possible in strictly defined cases, and be limited according to the period of time and intensity,
- endorses need for full disclosure of the aid available to airports and carriers and the conditions under which aid could have been paid,
- calls upon further stimulation of the social dialog and avoidance of social dumping in the sector,
- underlines importance of proper implementation of Guidelines; enforcement is of utmost value,
- calls for a long-term policy as far as development of regional airports are concerned. Aviation guidelines can be enforced successfully only as far as clear policy priorities of regional airport development are agreed.

2. Introduction

- 2.1 In the past two decades, the European air transport industry has experienced a number of transformations, mainly due to market liberalisation and the subsequent creation of low-cost carriers. While the single aviation market has enabled access to a greater number of European citizens to air transport through the emergence of new airlines, new regional airports and lower fares, it has had a non-negligible impact on employment and labour relations in the sector.
- 2.2 In 1994, in the context of the liberalisation of the market for air transport services, the Commission adopted the first EU Aviation Guidelines, which contained provisions for assessing social and restructuring aid to airlines in order to provide a level playing field for air carriers. They were completed, in 2005, by guidelines on the public financing of airports and on the start up of airline services from regional airports.
- 2.3 The European Commission envisages reviewing the 1994 Guidelines on the application of Articles 92 and 93 of the EC Treaty to state aids in the aviation sector, on the one hand, and the 2005 EU Guidelines on financing of airports and start-up aid to airlines departing from regional airports, on the other hand.
- 2.4 According to a number of European "network" carriers (most of whom are members of the Association of European Airlines - AEA) they have been confronted in recent years with a new type of competition stemming from carriers able to derive substantive revenues from local communities and airports. AEA carriers did take the position that these subsidies were unlawful and constituted blatant cases of State aid having as a consequence a serious distortion of competition in the European Air Transport market.

- 2.5 According to European Low Fares Airline Association (ELFAA) increasing consolidation amongst network carriers with an emphasis on feeding their hubs, has resulted in fewer alternatives for regions and their airports, seeking to develop an increased range of direct point to point connections. In many cases, low-cost carriers (LCC) represent the only prospect of growth for regional airports in the European market. The recent EU enlargement has opened up new market opportunities and many of these markets rely heavily on the low fares business model to develop and sustain traffic flows. According to ELFAA these routes are socially and economically valuable in the context of European cohesion and regional development.
- 2.6 Since 2005 Member States have refrained from notifying the Commission of many instances in which airports or local communities did grant subsidies; the 2005 Aviation Guidelines have not steered the creation of national schemes defining precisely the conditions under which aids could be granted, and perhaps even worse, on those few cases that were notified and gave rise to a formal procedure from the Commission, decisions have been at best slow, leaving many unresolved cases. This contributed to the establishment of a certain impunity and *laissez-faire*.
- 2.7 The conception of the airport as an economic driver of economic development for the region has been fostered by the increasing direct (financial) disengagement of the State, transferring to regions and other local authorities the duty to supervise, manage and finance these essential infrastructures. Regional authorities more and more consider the airport as one of the major tools for developing the local economy.
- 2.8 The Commission has at the moment a significant number of complaints in the sector from the former flag carriers against the low-cost airlines, on the one hand, and from the latter against the former, on the other hand. Since 2005 the number of notifications to the Commission was rather low compared to the vast growth of regional airports in the EU.
- 2.9 The main results of the public consultation undertaken by the Commission provide for:
- Need for simplification and increase of transparency of guidelines,
 - Support for more enforcement of State aid rules to airlines and airports,
 - New category of rules to avoid distortion of competition between airports located in the same catchment area,
 - More clarity and predictability for rules on investment aid (clear definitions of financial parameters).
- 2.10 Thus the EESC shares the view of major stakeholders, that review of the current aviation guidelines is absolutely necessary and in order to create a proper level playing field it has to be done without any delay. Development of regional airports is important for economic growth and territorial cohesion and requires clear rules governing state aid.

- 2.11 The EESC is of the opinion, that it is necessary to prepare a study, which will present the current state of state aid and similar practises as far as implementation of Aviation Guidelines is concerned. In particular in order to evaluate to what extent current practice does or does not distort a level playing field among the airports as well as among the airlines, the study should provide detailed information on the amount and type of aid granted their impact on real economic development/efficiency and their quantitative and qualitative impact on employment.
- 2.12 The economic crisis in the world today and in particular growing budgetary pressures in the EU and Member States may challenge existing state aid policy for regional airport development. It is necessary to better understand to what extent the current economic model of regional airport functioning is sustainable in the longer term. As the current discussion on the MFF 2014–2020 shows, it is a great challenge to do more in the EU with less money available. This clearly applies also to the matter discussed in this opinion.

3. **The market**

- 3.1 There are app. 460 airports used for commercial aviation in EU Member States. In 2010 app. 60% of airports in EU served less than 1 million passengers.
- 3.2 The air transport market has evolved dramatically in recent years: LCC have developed new and comprehensive business models linked to regional airports and have gained substantial market shares. At the same time, the former national carriers have almost all undergone a restructuring process, consolidating further their presence in Europe.
- 3.3 In 2005, LCCs had 25% of the intra-European market share, whilst in 2010 this had grown to 39%. When only point-to-point traffic is included, this share rises to 43%. From 2008 to 2010 traditional "network" airlines - members of AEA - have posted substantial losses on their intra-European operations, and despite their positive results on long-haul (EUR 1bn in 2008, EUR 100m in 2009 and EUR 1.1bn in 2010) the overall EBIT was negative due to the negative weight of short-haul, intra-European routes.
- 3.4 According to ELFAA by 2020, based on current trends and airline fleet replacement plans, the share of low fares airlines is expected to rise to between 45% and 53% of intra-European air passenger journeys. For point-to-point journeys, the low fares market share is projected to rise to between 50% and 60%. LCCs have not been losing money in the latest crisis to the extent that the "network" carriers have.
- 3.5 LCCs are by far the predominant actors in the regional, point-to-point, operations. In the LCC category, three carriers have more than 52% of that market, whilst the three biggest "network" carriers only represent 22% of the internal network market. Combining both a) the increasing share of LCCs on intra-European routes, and b) the increasing share of regional, point-to-point, routes vs. the traditional hub-to-hub operations one can infer from that that

there is today more on offer than there used to be, but that part of this increase on offer (namely on the point-to-point) is ensured by a restricted number of competitors.

- 3.6 With the exception of the major European hub airports and the largest regional airports, a large number of European regional airports cannot be considered as economically viable when taking into account the real cost of infrastructure. Many small regional airports cannot bear the costs for the infrastructure, financed by other available funds often at regional level. A large number of airports would simply have to close if they had to pay for the real cost of the infrastructure.
- 3.7 It is important to keep in mind that Europe is facing shortage of airport capacity in the coming years. The EUROCONTROL study "Challenges of growth" (2008) and a recent Long-Term Forecast (2010) stress the capacity shortage at European airports in light of the projected traffic growth by 2030 (16.9 million flights, 1.8 times the number of flights in 2009). According to these authoritative reports, despite a planned increase of capacity of 41% in the European airport network by 2030, an alarming 10% of all flights will not be accommodated due to insufficient airport capacity.
- 3.8 While external funding of the infrastructure is generally not a key issue for major airports, it is vital for many regional airports which do not have the economies of scales and the commercial revenues which could generate the necessary margins to finance their infrastructure.
- 3.9 A new point-to-point market is both an opportunity and a cause of uncertainty for certain regional airports due to a very volatile market. LCCs in particular are able to redeploy their aircraft and crews throughout Europe at very short notice, depending on the economic potential of a new route to an alternative airport. Stability and predictability of these airports' revenues is in question.
- 3.10 Start-up aid realised under the current Guidelines has resulted in an "investment race" between different regions to develop their regional airports very often also through usage of the EU funds. If a regional airport enters in financial difficulties the region claims further aid, using the arguments that these regional airports are under-utilised and represent a necessary cost to the local communities.

4. **Specific comments**

- 4.1 The airline industry in long term is a very low profitable industry and it is already very competitive. In such environment even small subsidies may effect competition, thus there is a need to handle this problem with great care.
- 4.2 The major question is what kind of approach we need while preparing new Aviation Guidelines. There are at least several of them.

- 4.2.1 According to ELFAA unlocking the potential of regional airports is crucial to continuing the process of territorial cohesion and regional development in the EU, as well as removing congestion from the "hub" airports of the "network" airlines. Developing regional airports means more employment, greater opportunities for business in peripheral areas of the EU, lower emissions through direct region-to-region connections instead of indirect flights through hubs, and less ground transportation emissions through the use, by passengers, of their local airports. The growth of regional airports, according to ELFAA, must be encouraged by flexible State aid Guidelines which focus on the Market Economy Investor Principle (MEIP) rather than rigid rules which prevent growth where there is demand for growth.
- 4.2.2 According to AEA the new guidelines should aim to protect all operating carriers in the industry against discriminatory and unclear financial aids to airlines by regional airports or local communities. Such aid should be possible only in strictly defined cases and be limited according to the time period and intensity. Moreover such aid could be granted only on a stand alone basis with regard to the principles of transparency, equal treatment and non-discrimination between operators.
- 4.2.3 According to ACI EUROPE the guiding principle for the assessment of state aid measures should be the possible distortion of competition by an airport in terms of traffic volume.
- 4.2.3.1 Exemption of airports in category D (up to 1 million passengers): It is widely acknowledged that airports below a certain threshold are normally not commercially viable and may need public funding. In addition, these small airports often ensure the territorial connectivity of regions and conurbations and usually do not adversely affect trading conditions in the EU given their limited traffic volume. Therefore, according to ACI, the use of public funds for the development of new infrastructure and new routes should be allowed without prior notification. However, any public funding should end as soon as the threshold of one million passengers has been reached.
- 4.2.3.2 The public funding of infrastructure and the financing of start-up aid by airports above one million passengers must comply with a Private Investor Test (PIP) that is adapted to the specific needs of the airport sector.
- 4.3 The EESC supports the view presented by the Commission, that as far as the revision of general approach to state aid covered by guidelines is concerned, the following principles are to be endorsed:
- There should be no distortion to competition,
 - Through further enabling of regional air transport, development and accessibility of regions are to be improved,

- Duplication of unprofitable airports is to be avoided,
- Creation and maintenance of overcapacity is to be avoided.

4.4 Developments of airports able to cover their costs and more involvement of private investors it to be promoted, the EESC - on the other hand – understands and supports the need for public service obligation for air service of economic interest, especially connecting remote regions and islands

5. **Recommendations**

5.1 The EESC advocates the need for a standardised EU legal framework for the entire aviation sector, which prevents uncontrolled subsidy practices and ensures a level-playing field for all market participants also at the local level.

5.2 As a general principle, private investment cannot be considered as State aid. At the same time, a public operator can act as a private investor if the investment is commercially justifiable.

5.3 The new Guidelines to be proposed by the Commission should aim to protect all carriers and airports against discriminatory, unclear and distorting financial aid by regional governments or airports. Public funding must not distort competition neither between airports nor airlines. Block exemptions for certain category of airports or airlines are not considered by the EESC to be necessary for enhancing regional development.

5.3.1 State aid for investments in airport infrastructure and start-up aid for airlines should only be possible in strictly defined cases, and be limited according to the period of time and intensity. Moreover, it should only be granted in exceptional circumstances and with due regard to the principles of transparency, equal treatment and non-discrimination.

5.3.2 Concerning transparency, the conditions under which public aid is available should be published for the public. There should be full disclosure of the aid available to airports and carriers and the conditions under which aid could have been paid.

5.3.3 The new Guidelines must be established through a clear and simple set of rules to achieve legal certainty for European aviation sector. The EESC wants to underline the importance of proper implementation of Guidelines; enforcement is of utmost value.

5.4 The new guidelines must take into account interest of employees and travellers. Considering human resources are an essential component of the quality of air transportation system, a sustainable civil aviation industry need to offer quality employment and good working conditions. In this order of ideas it is important to stimulate the social dialog and to avoid the social dumping in the sector.

- 5.5 The EESC calls for a long-term policy as far as development of regional airports are concerned. Aviation guidelines can be enforced successfully only as far as clear policy priorities of regional airports development are agreed. It shall be the task of the Commission to work out such political agenda to be prepared without any further delay.
- 5.6 The EESC calls Member States for strong support and commitment to preparation and implementation of new Guidelines. Notification must be submitted in the state aid cases.
- 5.7 The completion of an efficient co-modality between rail transport and air transport needs to be further studied and implemented to open up certain areas and to meet environmental requirements.
- 5.8 It is particularly relevant due to the allocation of the EU funds in the new MFF. Doing more for less budget requires clear priorities. Regional development is very important, but it should not further justify development of airports, where there is no possibility to create sufficient demand.

Brussels, 11 July 2012.

The President
of the
European Economic and Social Committee

Staffan Nilsson
