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EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

COMMUNICATION FROM THE COMMISSION

Guidelines on State aid to airports and airlines

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1. PROBLEM DEFINITION

1.1. Policy context

Linking people and regions, air transport plays a vital role in the integration and the competitiveness of Europe, as well as its interaction with the world. The European Union ("EU") profits from its position as a global aviation hub, with airlines and airports alone contributing more than €140 billion to the EU's Gross Domestic Product each year. The aviation sector employs some 2.3 million people in the EU¹.

The Europe 2020 Strategy underlines the importance of transport infrastructure as part of the EU's sustainable growth strategy for the coming decade. In particular, the Commission has emphasised in its White Paper "Roadmap to a Single Transport Area"² that the internalisation of externalities, the elimination of unjustified subsidies as well as free and undistorted competition are an essential part of the effort to align market choices with sustainability needs.

In its Communication on State Aid Modernisation (SAM), the Commission points out that State aid policy should focus on facilitating well-designed aid targeted at market failures and objectives of common European interest, avoiding a waste of public resources. State aid measures can indeed, under certain conditions, correct market failures, thereby contributing to the efficient functioning of markets and enhancing competitiveness. Furthermore, where markets provide efficient outcomes, but these are deemed unsatisfactory from a cohesion policy point of view, State aid may be used to obtain a more desirable, equitable market outcome. However, State aid may have negative effects, such as distort competition between undertakings and affect trade between Member States to an extent contrary to EU interest. State aid control in the airport and air transport sectors should therefore promote sound use of public resources for growth-oriented policies, while limiting competition distortions that would undermine a level playing field in the internal market, in particular by avoiding duplication of unprofitable airports and creation of overcapacities.

The application of State aid rules to the airport and air transport sectors constitutes part of the Commission's efforts aimed at improving the competitiveness and growth potential of the EU airport and airline industries. A level-playing field among EU airlines and airports is of paramount importance for these objectives, as well as for the entire internal market. At the same time, regional airports can prove important both for local development and for the accessibility of certain regions, in particular against the backdrop of positive traffic forecasts for EU air transport.

As part of the general plan to create a single European airspace and taking account of market developments, the Commission adopted in 2005 Community guidelines on financing of airports and start-up aid to airlines departing from regional airports (the "2005 Aviation guidelines"). These guidelines specified the conditions, under which certain categories of State aid to airports and airlines could be declared compatible. They supplemented earlier Aviation guidelines of 1994, which mainly contained provisions with regard to the restructuring of flag carriers and social aid for the benefit of European citizens. Neither of these two guidelines have expiry clauses, however, a majority of

¹ Study on the effects of the implementation of the EU aviation common market on employment and working conditions in the Air Transport Sector over the period 1997/2010. Steer Davies Gleave for the European Commission, DG MOVE. Final report of August 2012.

² A Roadmap to a Single Transport Area – Towards a competitive and resource efficient transport system, COM(2011) 144.

stakeholders in the 2011 Public consultation on the Application of the Aviation Guidelines called for the Commission to proceed with a revision of the existing set of guidelines.

The revision of the Aviation Guidelines affects public authorities, such as Member States, Regions, Cities and Municipalities which are financing airports, airlines and are providing start-up aid for the development of new routes. In addition airport managers, airlines, ground handling companies, and other players in the aviation industry are affected. The new rules can also have an indirect effect on consumers, insofar as amendments, may affect the level of air fares.

1.2. Key problems

The policy goal of state aid control is to ensure that aid leads to positive results in terms of accessibility and regional development due to the development of regional airports and airline activities from these airports and that these positive effects outweigh any potential negative effects in terms of distortions of trade and competition within the internal market.

The revision of the guidelines on state aid to airports and airlines should therefore aim to address the following main problems related to:

- (1) How to increase the effectiveness of state aid to airports and airlines as a policy tool for supporting local economic development and accessibility of a region?
- (2) How to increase the efficiency of state aid rules to airports and airlines in ensuring control of competition effects by the Commission and the Member States?

Effectiveness of state aid to airports and airlines at promoting regional economic development and accessibility of a region

Airports play an important role for local development and the accessibility of a region. They can also have significant economic impact in terms of employment and contribution to a country's GDP. The extent to which State aid to airports and airlines effectively contributes to regional development and accessibility of regions is intrinsically linked to the question whether the aid is necessary. This test is missing in the existing rules. Investments in and maintenance of airport infrastructure as well as operation of airports may be economically attractive in its own right. Therefore, it is crucial to ensure that investments in and operation of airports would not have been undertaken or would not have been undertaken to the same extent without aid. Where the same level of investment and activity in airports would be undertaken without aid, its contribution to regional development and accessibility is essentially nil (and possibly even negative, considering the opportunity costs of public funds and the shadow cost of taxation, i.e. the distortive effect of the taxation needed to finance the subsidy).

Efficiency of state aid rules to airports and airlines for avoiding undue distortions of competition and trade

The design and weak enforcement of the existing rules contributes to distortions of competition and trade, as well as wasteful subsidy races among regions and the Member States. Despite their positive effects on regional development and accessibility regional airports present a dilemma. First, public funding to airport infrastructure resulted in many cases in duplication of (unprofitable) airports in the same catchment area, ghost airports and overcapacities at regional airports, while leaving the congestion problem of main airports unsolved. Second, the vast majority of regional airports do not generate sufficient revenue to cover their costs. Regional airports, which are within the same catchment area may suffer from a cannibalisation effect, i.e. a split of traffic among several

underutilized airports, which prevents all of them from growing to become more attractive, and results in higher costs as density/scale economies are not realized. Ultimately the capacity of regional airports is and remains underutilized. This requires subsidies which are used by airport managers to pay for investments and operating losses and to attract price sensitive airlines (mainly LCCs) with discounts, success fees and marketing payments to stimulate traffic. Those subsidies have not been effectively controlled by the Member States and the Commission. All this leads to distortions of competition, because airports compete for airlines and passengers and airlines compete for passengers.

1.3. How would the problem evolve, all things being equal? (Baseline scenario)

The baseline scenario would consist in maintaining the current rules, with the exception of the operating aid provisions, for which continuation of the policy of allowing operating aid as it has been de facto the case so far is applied.

1.4. Is the EU action justified on the basis of subsidiarity?

In the absence of new rules, the Commission would have to assess the notifications of state aid to airports and airlines on a case-by-case basis in direct application of the TFEU (Article 107(3)(c)). This situation would not ensure equal treatment, legal certainty and predictability and could lead to subsidy races between MS that would highly damage trade and competition within the internal market.

2. OBJECTIVES

The general objectives of the Aviation Guidelines are to contribute to regional development and to ensure that aid granted to airports and airlines does not create distortions of trade and competition that would be contrary to the common interest.

This dual general objective can be further detailed into the following specific objectives:

- (3) Promote regional development and accessibility of regions:
 - To promote economic development and employment;
 - To increase accessibility of regions for citizens.
- (4) Avoid undue competition distortions
 - To create level playing field for EU airports and airlines;
 - To help maintain the competitiveness of European aviation industry by preventing any segmentation of the internal market being driven by state aid.
- (5) Administrative simplification:
 - To minimise administrative burdens on firms and national administrations that could delay investment and business decisions;
 - To increase transparency.

3. POLICY OPTIONS

The three policy options examined can be summarised as follows:

- Option 1 corresponds to the baseline scenario, which essentially consists in maintaining the rules of the current guidelines, with the exception of the operating aid provisions;

- Option 2 generally corresponds to a policy approach that focuses primarily on avoiding distortions of competition by promoting efficient market structure;
- Option 3 generally corresponds to a policy approach that focuses primarily on promoting regional development and accessibility of regions while minimising distortions of competition.

The three Policy Options address the specific objectives of the revision of the Aviation guidelines to a varied extent. Policy Option 1 (the baseline scenario) consists in maintaining the current rules, with the exception of the operating aid provisions, for which continuation of the policy of allowing operating aid as it has been de facto the case so far is applied. As explained in section 3, this option has led to significant distortions of competition and waste of public resources. It also corresponds to the lack of clarity and transparency and weak enforcement of the current rules. Policy Option 2 focuses mainly on the objective of avoiding distortions of competition by prohibiting operating aid to airports and airlines altogether. If implemented quickly, this would lead to many airport closures and a loss of accessibility. Policy Option 3 focuses mainly on regional development and accessibility of regions while avoiding undue distortions of competition. Policy Option 3 builds on the current policy and gives an immediate follow up to the issues arising from market developments, case practice and stakeholders consultation. This approach has already been applied in the new draft Guidelines as published for consultation on 3 June 2013 and further revised following the stakeholders views. Both Policy Option 2 and 3 address the objective of administrative simplification and provide more clarity and transparency of the applicable rules.

Table 1: Overview of Policy Options

	Baseline scenario	Policy Option 2	Policy Option 3
Investment aid	<p>All airports are eligible for aid</p> <p>Aid amount: Aid intensities can reach up to 100% of funding gap</p> <p>There is no phasing out</p> <p>Individual notifications</p>	<p>Airports (<5m pax) that need investment aid</p> <p>Aid amount: 25-50-75% of funding gap depending on airport size</p> <p>Investment aid is allowed during transition period only</p> <p>Schemes for operating aid</p> <p>Transparency requirement</p>	<p>Airports (<5m pax) that need investment aid</p> <p>Aid amount: 25-50-75% of funding gap depending on airport size</p> <p>There is no phasing out</p> <p>Schemes for operating aid</p> <p>Transparency requirement</p>
Operating aid	<p>All airports are eligible for operating aid</p> <p>Aid amount equals total funding gap for operating costs</p> <p>There is no phasing out for operating aid</p>	<p>Operating aid to airports is prohibited</p>	<p>Small airports (<3m pax) are eligible for operating aid</p> <p>Aid amount: 50-80% of funding gap for operating costs depending on airport size</p> <p>Operating aid allowed during transition period only</p> <p>Schemes for operating aid</p>

	Individual notifications		Transparency requirement
Start-up aid	Airports <5m pax are eligible for start-up aid Aid amount: additional start-up costs Duration: 36 months	Start-up aid as operating aid to airlines is prohibited	Small airports (<3m pax) are eligible for start-up aid Aid amount: 50% of airport charges Duration: 36 months

4. ANALYSIS OF IMPACTS

The assessment of impacts focuses on the economic, social and environmental impacts. The assessment of those impacts is supported by stakeholder's views, quantitative data and/or by academic research where possible. It should be stressed that the calculations are based on best available estimates and assumptions and there is a considerable uncertainty in the results. Table 2 summarises the results of the assessment of impacts.

Table 2: Summary of impacts compared to the Baseline scenario

	Policy Option 2	Policy Option 3
<i>Economic impacts</i>		
<i>Impact on:</i> Number of operating airports / accessibility	High 0-238	Low
Competition between airports and airlines	High	Medium
Regional development	Low	Low
Lowering administrative costs	High -86%	Low -7%
<i>Social impacts</i>		
<i>Impact on:</i> Air ticket prices	Low maximum + €6.20/ticket	Low maximum + €3.00/ticket
Employment	Low	Low
<i>Environmental impacts</i>	Low	Low

5. COMPARING THE OPTIONS

This section provides for an assessment of how the policy options will contribute to the realisation of the policy objectives, in light of the following evaluation criteria: effectiveness, efficiency and coherence.

In terms of effectiveness, as shown in Table 3, no clear priority can be established between the envisaged Policy Options. This being said, Policy Option 3 appears to be the most balanced Policy Option because it offers the most appropriate pallet of rules to meet the defined objectives. It strikes a balance between the objective of avoiding undue distortions of competition and the objective of promoting regional development and accessibility of regions.

Table 3: Effectiveness of Policy Options in light of specific policy objectives

Specific policy objectives	Option 2	Option 3
Promoting regional development and accessibility by: <ul style="list-style-type: none"> • Maintaining regional airports • Supporting new investments in airports • Supporting development of new routes 	Low	High
Avoiding distortions of competition by: <ul style="list-style-type: none"> • Limiting aid amounts • Introducing transitional period for operating aid • Verifying necessity and proportionality of aid 	High	Medium
Administrative simplification by: <ul style="list-style-type: none"> • Minimise administrative burden • Encourage notification of schemes • Increase transparency 	Medium	Low

In terms of efficiency, the total cost of the envisaged Policy Options covers administrative costs given that the proposed initiative is of procedural nature. It has to be noted that administrative burden for the all envisaged Policy Options is rather limited and consists of complying with notification, reporting and transparency obligations. Policy Option 2 appears to be the most efficient as it would generate the highest decrease in administrative costs.

As shown on Table 2, Policy Option 3 is the most coherent, carefully balancing action to achieve the specific policy objectives. No significant negative impact is foreseen under this Policy Option, which therefore represents lowest trade-offs across the economic, social, and environmental domain.

6. MONITORING AND EVALUATION

The monitoring of notified individual measures and schemes is done via State Aid Scoreboard and annual monitoring of selected state aid cases (sampling basis).

The State Aid Scoreboard provides information on the overall situation of state aid in each MS and on the Commission's state aid control activities. The information published in the Scoreboard is based on the annual reports submitted by the Member States. This ex-post monitoring exercise involves a check

of the legal basis and of the list of beneficiaries and an evaluation of the implementation of the scheme for a sample of beneficiaries. It will allow detecting and to correct irregularities in the implementation of schemes by the Member States and therefore monitor the Member States' respect of the Aviation Guidelines (not the quality of the Aviation Guidelines).

The Commission intends to carry out an ex post evaluation of the aviation guidelines, in 2021-2022. This ex post evaluation will in principle be conducted in accordance with the Commission's Evaluation Standards³. It will in principle be carried out by an independent external contractor and will involve a consultation of Member States and of other interested parties.

To support the revision of the aviation guidelines, the ex post evaluation should aim to focus not only on the implementation of the aviation guidelines by Member States and by the Commission, but also on the overall impact of state aid to airports and airlines in relation to the dual policy objective of EU state aid control from airports and airlines (cohesion and competition). In particular, the evaluation would seek to analyse the phasing out of operating aid to small airports and the effects of the aviation guidelines on parameters such as the contribution to regional accessibility, economic development, impacts on competition between airports and airlines, etc.

7. CONCLUSION

In conclusion, based on the impacts assessed, the Commission would prefer Policy Option 3, which appears in particular with respect to effectiveness, the most suitable option to achieve the objectives identified. Policy Option 3 will increase the effectiveness in promoting regional development and accessibility of regions most while limiting distortions of competition. This Policy Option is also fully coherent with the overarching objectives of the EU policies, reduces administrative burden and provides more clarity and transparency of the applicable rules.

³ See http://ec.europa.eu/dgs/secretariat_general/evaluation/docs/standards_c_2002_5267_final_en.pdf (or any update or revision of these standards).