RESPONSE

Consultation on the draft Guidelines on State aid to airports and airlines

The Convention of Scottish Local Authorities (COSLA) is the national and international voice of the 32 Scottish Councils. We are keen that EU state aid rules enable public authorities to support local communities and economic development in a fair but meaningful way.

General principle

COSLA welcomes the possibility to contribute to this consultation. At the COSLA Development Economy and Sustainability Executive Group, councillors agreed that:

“In terms of the COSLA response members endorsed a general lobbying line of supporting the status quo as regards the maintenance of subsidies to airports and airlines where they currently exists and to call for a reversal of the proposed EU criteria to set limits to these state aid, that is, to look at first at the economic development and connectivity needs of regions and local communities and only then to look at EU wide distortions to competition between airlines and airports.”

Background

The Regional Airport Guidelines have been in force for over a decade. Those Guidelines set the rules to allow that setting up, running and airport as well as subsidising new travel routes could be publicly supported. This was a quite sensitive dossier as many local and regional authorities subsidise their local airports as a driver for economic growth and develop connectivity.

We equally note that over the last 10 years the proliferation of budget airlines and the construction of local and regional airports often thanks to public support required for a review of the guidelines. Equally, a review of the Guidelines that would enable cases that are in the pipeline to be examined more quickly and efficiently is welcome as this would ensure better legal certainty for operators and public authorities.

This is an issue of clear interest for Scottish Councils. While airports and airlines in Scotland are privatised there are links and airports that are publicly supported. It is worth recalling that Scotland geographical make up and connectivity problems (remote areas, islands, mountainous terrain) has resulted in having an unusually high number of airports relative to its size. Furthermore, Scotland peripherality relative to the European continental landmass also makes it highly sensitive to changes in rules to support airports and air links.

Moreover the 32 Scottish Councils have powers on local economic development and therefore they have a clear interest in the impact of the new rules in the connectivity impact into local residents and in businesses.

The below recommendations are the result of the above mentioned political discussion and the evidence and exchange made with Local Authorities, Transport Partnerships, the Scottish Government as well as our opposite numbers from other countries under the Council of European Municipalities and Regions (CEMR) umbrella.

Detail

The obvious starting point is that Councils in Scotland like pretty much elsewhere in Europe favour a situation that continue support for airports and airlines is ensured as insofar providing this support is demonstrably the most viable way to ensure connectivity to citizens and businesses.
However, while noting that the current aid guidelines may have been abused in some countries leading to unfair practices that distort competition there is a perception that in Scotland this is clearly not the case. Any support given in Scotland to airports and airlines does reflect a public service need or simply to enable a flight connection that would otherwise not have existed.

**General considerations**

Indeed we note that Commission proposal fails to recognise its own research showing that the vast majority of airports cannot currently be profitable and only remain on the market because of public support.

It is clear that without a public operating subsidy, after the proposed transitional period, many regional airports will not be able to meet their operating costs in future.

In the peripheral countries and regions of the EU, where there is no alternative high speed transport option, there is a greater reliance on air travel to access existing and developing markets.

In a country like Scotland that is one of the most peripheral countries of the European mainland and which in turn is in the periphery of its own Member States (added to the fact that internally it has its own internal periphery in the Highlands and Islands) a OSFA approach such as that adopted by the commission clearly risks penalising some parts of the country as well as its overseas links.

The competition regime should thus not only be a tool of state aid enforcement, but should be more growth-focused and contribute to Treaty objectives such as job creation and territorial cohesion whenever possible. There is a strong relationship between air connectivity and economic growth and DG REGIO should therefore be a closer partner in defining the Commission’s policies in this area. In particular without a public operating subsidy, after the proposed transitional period, many regional airports will not be able to meet their operating costs in future.

Finally the likelihood of a negative impact on consumers is not discussed at all in the guidelines and is a significant omission.

**Operating Aid**

While as regards to operating aid it is welcome that the new Guidelines allows it and that the transition period may be regarded as quite generous the proposal still clouds the fact that sustainability is not something that cannot be guaranteed over time. It might well be that a few years after the 10 year limit an airport due to a change of economic circumstances would have to be supported as to ensure vital flight services to continue.

Clearly this rule will disproportionately affect smaller airports and hence it is vital that they are confirmed by the Commission to be under the SGEI guidelines before the Regional Airport Guidelines are in force.

Particularly in the current economic climate in Europe and given that the majority of airports are currently unprofitable without public support in the form of operating aid the goal that all airports should be profitable within 10 years seems might be unrealistic.

The provision allowing investment aid after 10 years where there is a ‘genuine transport need’ and ‘positive externalities’ (point 16), should therefore also apply to operating aid. A longer transition period, or an extension to the transition period, should also be available for those airports unable to reach profitability. The Commission should work with airports with long term operating on a case by case basis to achieve pragmatic solutions which facilitate their on-going operation and the demonstrable benefits for the local community.

**Thresholds**
We understand that the thresholds and the distance criterion have been proposed by the EC after discussion with the industry and they are an EU average, hence worth considering the applicability in Scotland. On that note the Commission would need to amend the SGEI decision as to make the SGEI and Regional Airport Guidelines consistent with each other.

Additional criteria

Clearly Scotland should make a strong argument of the peripherality and proximity criteria. In particular point 65 of the draft mentions “other areas”. The Commission should detail that provision as to enable, in duly justified cases, that these provisions cover not just small parts of countries but entire countries or regions that are peripheral from the European mainland and hence more reliable on air links to ensure connectivity. (In other words it could be a point to use as a basis to argue the peripherality of the entire Scotland not just in distance but the fact that other than the long way down via England it lacks land connections with the European mainland)

Flexible treatment of isolated, remote, or peripheral areas is needed. As recognised in the Treaty (Art.174 TFEU) areas with natural handicaps such as the northernmost regions suffer particular disadvantages. In the peripheral countries and regions of the EU, where there is no alternative high speed transport option, there is a great reliance on air travel. SGEI designation is therefore particularly justified in these cases.

While it is likely that larger airports that are closely located to each other, and airports/cities linked by high speed rail links would have difficulty to argue against a total exclusion from the Regional Airport Guidelines aid it should be recalled that rail and air sector operate differently and the latter is one way or another much more subsidised than the air sector, particularly if rail stations are also considered. The argument needs to be about which is the mode that can provide the biggest number of connection at the lowest or no level of public support rather than expecting little or no public support in one mode while allowing much higher levels of aid in the other.

Small Airports

On a positive note those Airports operated with support from the Scottish Government (All 11 HIAL airports would qualify for the maximum level of support under the proposals) and Scottish Local Authorities (Argyll and Bute Council, OIC and SIC) look as being below the 200,000 passengers per year or air links to islands receiving less than 300,000 air passengers per year (such as most of Highlands and Islands) that the Commission has set as thresholds.

However we understand that the existence on 200,000 passenger thresholds in the regional airport guidelines does not actually mean that such airports are automatically covered by the SGEI guidelines. Indeed our understanding is that when the regional airport guidelines will enter into force these will be the first ones that the Commission will look at in terms of compliance and only then will look at whether a given airport has been covered by the SGEI regime.

If that reading of the rules is correct, the Commission proposal will affect smaller airports as well. Therefore we strongly call for the final version of the guidelines will make explicit that any small airport under the threshold would automatically be covered by the SGEI Aid regime.

Large airports

In view of the perceived abuse of the existing rules on public subsidies to airport and air links the Commission is keen to eliminate the possibility of subsidising airports of more than 5 million passengers a year (Glasgow, Edinburgh), and introduce decreasing aid limits to the ones below that figure (Aberdeen, Prestwick).

The really significant impact of this proposal is that it will make it much harder to attract new routes to Aberdeen and Prestwick through route development support and it will effectively rule our route development funding for Edinburgh and Glasgow Airports effectively ending aspirations for direct support of new long haul routes including to China and leaving Scotland reliant upon UK and other European hubs for connectivity to fast growing markets.
As discussed above introducing a total ban on aid based on passengers numbers ignores the fact that the financial health airports and air links is not necessarily related to the number of passengers, and that the focus should be in ensuring that citizens and territories, particularly those further away from the European mainland can be better connected.

In other words these Guidelines should make unambiguously clear that medium and even large airports should still be able to be supported under the SGEI regime (with notification) whenever they contribute to ensure vital links and connectivity for local communities and business.

**Investment Aid**

These Guidelines need to allow greater recognition of the regional development benefits and that fact that a vast majority of airports across the EU too strict.

In scenarios where there is no displacement of services or no major distortion of competition, strong sustainable economic growth and increased connectivity across Europe and beyond, the annual volume of an airport’s passengers should only be one factor considered. Other indicators such as low population density; positive economic growth and job creation; minimal displacement of demand; proximity to an airport which is already at full capacity; and distance from other airports, should also be considered, and if necessary the aid intensity ceilings should be non-applied.

We are working with our opposite numbers under CEMR in devising an alternative proposal that, while limit aid to ensure compatibility with the Treaty (Art.107.3c TFEU) but are more realistic in terms of allowing public support, particularly as regards the infrastructure costs of smaller airports.

<table>
<thead>
<tr>
<th>Size of airport avg. passengers per annum (ppa)</th>
<th>Max. investment aid intensity</th>
<th>Max. investment aid intensity</th>
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<tbody>
<tr>
<td>Average</td>
<td>Commission proposal</td>
<td>CEMR proposal</td>
</tr>
<tr>
<td>&gt;5 million</td>
<td>0% (no aid allowed)</td>
<td>up to 20% for loans or grants</td>
</tr>
<tr>
<td>3-5 million</td>
<td>up to 25% loans only, not grants</td>
<td>up to 40% for loans or grants</td>
</tr>
<tr>
<td>1-3 million</td>
<td>up to 50%</td>
<td>up to 70%</td>
</tr>
<tr>
<td>&lt;1 million</td>
<td>up to 75%</td>
<td>Exempt from guidelines, thus allowing aid up to 100%</td>
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It should also be noted Point 16 of the draft guidelines references the 10 year transitional period in relation to investment aid, rather than operating aid. The guidelines should be absolutely clear that the proposed 10 year transitional period does not apply to investment aid at all, and that investment aid can be awarded at any point in an airport’s development.

**Start-up aid to airlines**

We note the proposed regime to govern start-up aid to airlines:
- only for airports with less than 3 million ppa
• aid limited to only the first 24 months of the route’s operation
• aid intensity limited to only 50% of the start-up costs.

As with the other forms of aid, the proposals for start-up aid are unlikely to be sufficiently flexible to allow public authorities to ensure successful airports.

A longer period may be needed for the route to become profitable. In the discussion with our counterparts from other countries we are considering a longer period e.g. 36 months, and a [75%], rather than up to 50% aid intensity would allow public authorities to offer sufficient incentives to new airlines.

As with investment aid, it is not totally clear if there will be a ban on start-up aid after 10 years following entry into force of the guidelines. Figure 2 annex II suggests this is the case, but it is not supported by a point in the text of the draft guidelines.

Concerning eligible costs the exclusion of standard operating costs, airport charges, etc. limits the potential for new routes/frequencies to be assisted under the Guidelines. In particular with Start-up Aid only permitted at airports up to 3m ppa, the restriction on eligible costs provides very limited scope for meaningful levels of support to be offered in relation to the larger commercial risks of starting new routes/frequencies at these smaller airports.

As with other parts of the guidelines we endorse the view that whenever aid has a demonstrable added value it should be agreed. **Concerning start up aid where there are demonstrable ex ante operating losses** during an initial start-up period aid could be granted and eligible for the wide variety of eligible costs that are directly relevant to the sustainability of the air link.

Equally we are concerned that **no specific provisions and aid intensities exists for sparsely populated regions such as was the case in the current guidelines**. The Guidelines need to recognise that in such areas it takes considerably longer to establish new routes.

Limiting Aid to maximum 2 years restricts the potential for development of commercial air routes to remote/sparsely populated regions which **will take 3-5 years to mature and/or present a more significant commercial risk to an airline**.

**Furthermore, notification requirements should be reviewed so that they are more proportionate to the size of airport concerned.** We understand the decision to allow start-up aid can take up to 18 months. This reduces the ability of the airport to attract new business and can be detrimental to the airport’s success. **Smaller airports, and smaller public authorities, have limited administrative capacity.**

Finally It would be useful if notification requirements were made clear in the text at 5.2 to be consistent with sections 5.1 and 5.1.2 and confirm at Annex III the position with regard to individual notification.

**Conclusion**

While recognise the need to ensure fair competition and prevent abuses to the state aid regime the Commission final proposal need to better reflect the economic realities on the ground and the fact that the ultimate goal is to ensure that local communities, its citizens and business are better connected. This in some occasions requires a degree of public support and these guidelines need to recognise that. COSLA is keen to continue working with the Commission, Scottish, UK and European Partners in finding an equitable solution.

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