In response to the European Commission’s publication of new draft guidelines on State aid rules for the public financing of airports and airlines, the European Business Aviation Association (EBAA) would like to raise several concerns as an organisation.

About EBAA

EBAA is the recognised voice for business aviation in Europe and works on behalf of its members to monitor and influence regional and international regulation affecting the way its members operate and conduct business. EBAA counts some 500 Members from across the industry and represents a fleet of over 1000 aircraft.

Through the International Business Aviation Council (IBAC), of which EBAA is a founding member, the Association works closely with the global business aviation community, safeguarding European competitiveness and ensuring fair and equitable access to international airspace.

Background

The draft guidelines ‘specify the conditions under which such public financing may constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union ("TFEU"), and when it does constitute State aid, the conditions under which it can be declared compatible with the internal market.’ Whereas the 2005 Aviation guidelines left open the issue of investment aid, these revised Guidelines define maximum permissible aid intensities depending on the size of the airport. The consultation process was opened on 3rd July 2013 and will end on 25th September 2013.

EBAA’s comments on the draft guidelines

- Airports are more than just economic entities

Since the "Leipzig-Halle airport" judgment the General Court confirmed that the operation of an airport is an economic activity and the rationale of the draft guidelines reflects the outcome of these cases and is based on a perception of airports as mere commercial entities that must economically “break even” within the framework of their direct activities. This perception, however, is a grave mischaracterisation of the role of airports, wholly discounting the important public service they offer to local and regional communities.

The airport cannot be looked at as an independent economic actor. The airport serves by nature a social and economic function that goes well beyond its own sphere of activity. It has intrinsically a public function, which is why it was built in the first place. No – or almost no – airport has ever been built simply on the ground that it could become profitable.
The EBAA therefore maintains that it would be a mistake to consider airports simply from an economic point of view, airports serve a community, and their scope is hence much larger than the sole economics of its operations. Irrespective of the reasons underlying the construction of an airport, at a given time and at a given location, there was at a given point a rationale, a justification, for doing so. It might have evolved over time, sometimes to the point where it is not justifiable anymore to the community which decided its construction back then.

In which case it could then close. Closure of an airport is no anathema, and if decided so by the community it serves, then it is acceptable. But this is an important aspect, as it calls for the notion of subsidiarity.

- **Subsidiarity principle affected**

The departing point is that airports serve basically two sets of different interests: true hubs – and there are only a handful throughout Europe – serve a national interest (and perhaps even beyond), whilst regional airports and aerodromes fit into a local reality by serving mainly regional interests (which can sometimes transcend boundaries, e.g. Basel-Mulhouse-Freiburg). This differentiation requires that subsidiarity, and not an inflexible application of top-down, should be the prevailing principle when it comes to decision-making.

The new Guidelines force Member States as well as regional and local authorities to comply with more restrictive rules, limiting their ability to invest in the development of airport infrastructure (investment aid) as well as in the financing of daily operations of smaller airports (operating aid).

According to the well-established principle of subsidiarity, as it is commonly applied for land-use planning, it is hence only logical that the decision of maintaining, or developing an airport should be left to the local community.

- **Operating aid : the conditions are too strict**

The Commission states that ‘operating aid constitutes in principle a very distortive form of aid and can only be authorised under exceptional circumstances’ (paragraph 14 of the draft guidelines).

Added to that, according to the draft guidelines, operating aid to regional airports (annual traffic of the airport does not exceed 3 million passengers) will only be granted during a transitional period up to 10 years. Only small airports with less than 200,000 passengers per year will be able to receive public operating aid after the transitional period, under the provision of compensation for uncovered operating costs of services of general economic interest (SGEI) to allow for connectivity of all regions.

We believe that these restrictions will seriously limit the development of regional airports and the passengers’ demand and may even lead to their closure, which again is not totally unacceptable in principle, as long as this results from an educated decision at the right level.

In any case, these conditions are in contradiction with the economic reality of small airports that are dependent on the level of throughput and where full cost recovery cannot be achieved due to high fixed costs.

- **Elements of the draft guidelines seem contradictory**

The Commission recognises in the draft guidelines that ‘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’ (paragraph 9).
It adds that following the 2011 consultation, the majority of Stakeholders considered that ‘most regional airports cannot be profitable and should benefit from special State aid rules’ (paragraph 11). The document also recognises that airports with annual passenger traffic of between 200,000 and 1 million are usually not able to cover to a large extent their capital costs, but should in general be able to cover partially their operating costs (paragraph 80).

However, the guidelines require airports above 200,000 passengers per year to survive without public support. There seems to be an unsustainable contradiction here and we can only but urge the Commission to try and reconcile these two aspects, by taking into account the operating reality of smaller airports.

Similarly, we believe that the EU cannot on the one hand limit airport access at principle hubs to primarily non-scheduled and regional carriers via its unbalanced policy of slot distribution, and on the other hand put into question the very existence of regional airports. By so doing, the Commission unravels Europe’s economic fabric and contradicts its policy of social cohesion.

Europe is facing a shortage of airport capacity – see the EUROCONTROL study “Challenges of Growth” 2013 - and in the meantime, the proposed guidelines could lead to the closure of dozens of airports. In the most-likely scenario, almost 2 million flights will not be accommodated (12% of total demand) by 2035.

All these are flagrant contradictions that need an urgent fix, failing which these Guidelines risk sending confusing signals to stakeholders, which is the last thing airports and airspace users need in these challenging economic times.

**Conclusion**

The rationale of combating indirect helps to certain low-cost carriers on the ground that they dent fair competition is comprehensible and even laudable. As such, the Commission should find direct ways to tackle them without having to resort to cutting aids that are decided by local communities for helping support an infrastructure they – obviously – want to maintain for different reasons

But involving regional airports and their aid for the main – if not sole – aim to curb LCC’s helps is a step too far we believe. It is both the wrong instrument, and it risks jeopardise much more than the relationship between LCCs and traditional carriers. It could actually question an unrivalled network of regional airports and aerodromes. Maintaining it has a cost, which we believe is more than compensated by what it brings to the whole community.

So in conclusion, we invite the Commission not to fight the wrong battle, and to question the appropriateness of an initiative that puts at risk hundreds of aerodromes and airports across Europe, a source of wealth and great value thanks to their employment opportunities and unique know-how. This fight between different business models will provoke collateral damages to these infrastructures that may result irremediable.

The EBAA Secretariat remains at your disposal should you have questions.

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