European Commission
Directorate-General for Competition
State aid Registry
Ref.: "HT 2635"
1049 Bruxelles/Brussel
BELGIQUE/BELGIE

Dear Sir / Madam,

An efficient, safe and reliable air transport system that links Europe's regions with each other, and the rest of the world, is important for the sustainable growth of European economy. This principle has been repeatedly stressed by the European Commission. For Estonia, it is greatly encouraging that the transport White Paper states that "curbing mobility is not an option."

In 1994, with the liberalisation of the market for air transportation services, the Commission adopted the first Aviation Guidelines, which contain provisions for assessing social and restructuring aid to airlines in order to provide a level playing field for air carriers. These Guidelines were completed in 2005 on the public financing of airports and on the start-up of airline services from a regional airport.

We agree that the principles described in 1994 and 2005 Guidelines should be retained generally. At the same time, they need to be updated and improved.

In order to ensure a level playing field for all the Member States, the new Guidelines must take into account geographical differences of remote countries and small markets. More specifically, the Guidelines should include provisions to address situations where
the free market economy has failed and left Member States cut off from effective transport routes to the rest of Europe. Under those specific circumstances these Member States must have in clearly defined situations the opportunity to provide state aid to correct market failures. This is all the more true in cases which concern projects financed by the Cohesion Fund, to reduce the economic and social shortfall of these Member States.

Estonia clearly recognizes the importance of competition rules since they are an important tool to assure the necessary sustainability of the liberalised aviation market. But having been a part of the liberalised aviation market since 2004, we can say without hesitation, that the Estonian experience shows that the existing Guidelines for the aviation sector do not always meet the needs of countries with circumstances similar to Estonia to ensure essential air connections, nor take sufficiently into account the fact that in some cases, aviation services are a basic necessity for a Member State’s competitiveness and economic and social cohesion. This is the case for Estonia, as the country is far from business and administrative centres of the EU and there is no high speed train connection to offer an alternative mode of travelling. In addition, aviation consultancy company Nyras has done a comprehensive market study on this issue and we are happy to share its main findings that support our arguments with the Commission.

Based on what has been mentioned above, our main concerns regarding state issues in the future are the following:

- One of the primary goals stressed in the Guidelines is the promotion of business activity as well as economic, social and regional cohesion within the EU. However, the severe change in the approach proposed in the Guidelines may have detrimental impacts at achieving these aims, thus, not leaving the tools for convergence of the transport infrastructure and the promotion of accessibility within the EU, if the possibility to develop public infrastructure at TEN-T core airports, especially those receiving Cohesion policy support at the peripheral areas of the EU, is diminished rapidly. **We propose that the new Aviation Guidelines allow for an application of the cohesion policy coffin rate (85%) for investment in public infrastructure for Ten-T core airports, to ensure connectivity with EU peripheral areas.**

- As it is very difficult to encourage airlines to fly to peripheral airports, start up aid for new routes is essential in reaching a level of sustainability. The experience of Tallinn Airport shows that a minimum of 36 months is needed for a new route to reach a
sustainable level. Therefore we believe start-up aid in those occasions should be at least 36 to 48 months.

The Guidelines should allow more flexibility and enable provision of state aid to outer regions of the EU, where aviation services are a basic need, to reduce their economic and social shortfall compared to other Member States.

We would also like the Commission to clarify and take into consideration the following items in the Guidelines:

• Part 2 (Scope of application): we ask the Commission to specify whether the Guidelines apply (or do not apply) to firms in difficulties.;
• Point 34: last sentence refers to the potential advantage even if the services are considered to be non-economic. As in case of financing of non-economic activities state aid rules do not apply we ask the Commission to specify which activities are considered to be non-economic and under which rules such non-economic services are assessed. We are of the opinion that the financing of non-economic activities cannot be in any case considered as an advantage.;
• Point 50 and point 12: both notions „airport manager” and „airport operator” are used in the text – we ask the Commission to specify if these are overlapping notions;
• Point 57 (c): we ask the Commission to specify what is meant under „large city” (i.e. to define „large city” in Annex I).;
• Point 107: it is referred to „operating aid granted in line with general State aid rules”. We ask the Commission to specify what kinds of rules are meant – assessment right under TFEU Article 107(3) (c)?
• Point 112: it is not clear which part of the Guidelines points a, e and f as well as b and d belong to. E.g. in part 5.1.2 (about operating aid for airports) there is no point f at all.;
• Point 113(e): it is stipulated that start-up aid cannot be cumulated with other types of aid, including aid paid in another Member State – we ask the Commission to specify how it can be controlled? In our opinion it cannot be controlled, so we suggest deleting this requirement.;
• Point 120: we suggest leaving out a requirement to publish on a central website “expected benefits of the project for regional development and accessibility of the region” because analogical information was also left out of point 141 of the Regional aid Guidelines 2014-2020. We also suggest applying a transitional period for point 120 because if the Guidelines are enforced from the beginning of 2014 no IT developments
can be made so quickly (in case of Estonia in the state aid and de minimis aid registry). The transitional period should last at least until 1.07.2014.

- Annex I (Definitions):
  a), „Catchment area of the airport” – we suggest to specify that the definition applies within one Member State, and the requirement of 100km or 60min should be cumulative — 100km and 60 min.;
  b), „Start of works” – for the sake of clarity we suggest to add “planning” ("start of construction works on the investment including planning ...") if the planning costs are eligible under the project because the definition of "Eligible investment costs" in Annex I also mentions “planning costs”.

We would like to underline that the rules on State aid for regional airports should be clear and sufficiently flexible to ensure the competitiveness of the EU's peripheral airports as the social and economic cohesion of such regions.

The Guidelines should also more precisely regulate the State aid rules for airlines operating from those airports. In Estonia where big European legacy carriers operate only one major route (if any) and there is strong tendency from the LCC-s to shut down half of the network for the winter, there is urgent need for a regional airline who will ensure vital connections to Central European business and administrative centres. As it is very complicated, time consuming and not sustainable to impose PSO contracts on international routes we think that Guidelines should also include provisions for the airlines to address situations where the free market economy has failed and leave Member States cut off from effective transport routes to the rest of Europe.

Even though we are confident that in a long perspective liberalisation of aviation market is in everyone's benefit, the rules must at the same time provide exceptions to cure short term market failures to avoid social and economic consequences arising from isolation of new Member States in the border areas of the EU.

Sincerely,

Juhan Parts
Minister

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