Consultation of the Communication from the Commission
ref. Draft EU Guidelines on State aid rules to airports and airlines

Dear Mr Almunia,

I herewith submit the contribution of the Kreis Paderborn as majority shareholder of the regional airport Paderborn/Lippstadt to the above mentioned consultation.

Given the fact that the airport Paderborn/Lippstadt is particularly affected by State aid provided to two competitors in the vicinity, namely the airports of Dortmund and Kassel-Calden it is of vital interest for Paderborn that a valid level playing field for all market participants will be established within the European Union.

To that end, it is highly appreciated that EU-Commission not only recognizes the importance of regional airports for a solid air traffic network within the EU to achieve integration and competitiveness of Europe but also is taking into account that some steps to achieve this are not possible without State support. With its draft for new State aid rules Commission has published a generally well-balanced framework suitable for smaller and bigger airports and their differing needs.

I fully support Commission’s clear statement that airports shall only be operated under fair competition conditions. The operation of an airport must be profit-oriented,
whereas particularly operating aid constitutes in principle a very distortive form of aid which may only be authorised under exceptional circumstances. Nevertheless, there are specific conditions which lead to situations in which airports cannot carry out business without State aid. Commission is addressing this also with an appropriate set of rules, i.e. for investment aid and start-up aid.

Acknowledging the need for assistance in special cases, I raise, however, my **strongest concerns** against the implementation of a **transitional period of 10 years** as a general rule allowing for progressively decrease of operating aid by 10 percent p.a. until full operating cost coverage is reached over these 10 years at all airports.

I consider it highly critical that through this clause EU-Commission would maintain a totally unacceptable situation for market-oriented competitors who finance their operational business operation through profits, but having to suffer from huge financial losses through illegal operation aid provided to and from their competitors. In many cases high operational aid measures attract low-cost-carriers who cover an extended catchment area (about 150-200 km) leading to a substantial decrease of passenger numbers and subsequent decreases of utilisation and profits on competing airports.

Against this background many complaints have been filed with the Commission leading to several in-depth inquiries to examine possible infringements against the TFEU. The respective complainants justifiably expect Commission to attend its duties as Guardian of the Treaty, to investigate into the objects of complaints and to determine repayment of State aid as the legal consequence for stated breaches of the TFEU.

Under no circumstances could I understand if Commission not only amnesties even in such cases where inquiries are already conducted for several years resulting in an abdication of aid repayment, but - even worse – would freeze an status not in line with the TFEU at some airports thus contributing to undue distortion of competition for further 10 long years.
By using this approach Commission not only would act in clear contradiction to its statement in the White Paper "Roadmap to a Single Transport Area" that 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, but at the same time would also impose unacceptable special sacrifices on competitors that operate under fair market conditions.

The situation at the airport Paderborn/Lippstadt may well illustrate the unwanted effects: being the only profitable regional airport in Germany with a stable annual passenger number of 1–1.2 million over years due to a competition-oriented, conservative approach Paderborn had to face strong losses in passengers and also profits since Dortmund airport, only 95 km away, attracted low-cost providers on the basis of a 100% coverage of losses by the municipal energy provider, approximately 18-20 million Euros p.a. Consequently, complaints are pending for 7 years now and Commission is conducting an in-depth inquiry due to strong concerns whether the subsidiisation at Dortmund airport is in line with EU State aid rules. Dortmund’s operator therefore highlights the possible risk of aid repayments in recent annual reports. In case the transition rule would be applied as foreseen with decreasing aid intensity until full coverage of operative cost within 10 years, the total amount of aid would sum up to 104 million Euros during these up-coming 10 years only.

The pressure on Paderborn is getting even higher due to the starting business of airport Kassel-Calden, only 72 km away. Commission authorized an aid intensity of 100% for investments into the development of the existing small airport – despite the vicinity to airport Paderborn/Lippstadt, despite excellent connections to the high-speed train net of the Deutsche Bahn in Kassel and despite warnings of notable air traffic experts who could not see a relevant demand. The airport was opened in April 2013, infrastructure cost had risen up to 271 million Euros. The current estimation forecasts annual losses of 6.6 million Euros which would sum up to 36 million Euros.
in total assuming 100% coverage of operation cost and regular decrease of 10% p.a. in line with the transition rule.

As a result, airport Paderborn would have to stand up to two direct opponents that together would have 140 million Euros at their disposal within the next 10 years, only for operational costs – a massive competition disadvantage, justified through EU-Commission.

It is particularly inapprehensible that the planned transitional rule would not contain any discretionary room that would allow for ordering a faster or even immediate reduction of aid intensity in serious cases. This particular disregards that there is no justified need for further protection for aid measures which are already under scrutiny by EU-Commission for several years.

I would consider it generally unjustifiable and noncompliant with a fair competition regime if market-oriented airports would be driven to business failures through maintaining illegal conduct of competitors. Thus, my appeal to EU-Commission is to finalize pending cases in line with TFEU and to draw the necessary conclusions where infringements are constituted. Respective airport operators may by no means benefit form the transition rule and should be excluded from this privilege.

Otherwise the question for compensation schemes for affected competitors bearing the financial risk due to Commission’s approach would be more than justified.

Above that, my strong concerns against the proposed regime are even amplified by the fact that the new rules are missing any consequences or sanctions if the aim to reduce aid regularly within the annual frame of 10% or to reach black figures of the operation costs will be missed after these 10 years as there is no outlook and even less a guarantee that competition rules will be obeyed after that term. Commission is asked to make a clear statement as to how proceedings are foreseen in such cases.
In conclusion, if the outlined concerns are taken into due consideration I would regard the new Guidelines on State aid to airports and airlines as milestone to a market-oriented and fair competition regime of air traffic business within the EU.

Sincerely yours

[Signature]

Manfred Müller