CONSULTATION ON THE 2013 DRAFT EU GUIDELINES ON STATE AID TO AIRPORTS AND AIRLINES

SCOTTISH REGIONAL TRANSPORT PARTNERSHIPS’ RESPONSE

Introduction

1. This response is submitted by the statutory Regional Transport Partnerships (RTPs) for Scotland. The seven partnerships each has a Board consisting of Councillor Appointees from its constituent Councils and of non-elected appointees approved by the Scottish Ministers. Our principal function is to develop and implement a regional transport strategy which has Scottish Ministers approval. Air transport is a key component of that.

2. The Scottish RTPs welcome the opportunity to respond to the draft ‘Community guidelines on State aid to airports and airlines’ that follow the previous consultation on the review of the ‘Community guidelines on financing of airports and start-up aid to airlines departing from regional airports’ in 2011. We also welcome that the regulation repeals the two previous rules (1994 and 2005) which assists simplification. We have provided comment on each section of the draft guidelines but focus on the support measures that we believe will contribute to the Scottish Government’s key purpose of sustainable economic growth, especially start-up aid for new routes. The RTPs support this purpose and believe that aviation has a key role to play in achieving this end for our nation whose economy is outward facing with a number of key industries relying heavily on overseas markets and overseas trade.

3. We are disappointed that the concerns raised in the previous 2011 consultation regarding the definition of regional airports based on size and the lack of substantial support for new route development have not been taken on board and in fact, the new guidelines are even more restrictive on the level and type of aid we are able to offer Scotland’s regional airports.

4. Should our response raise matters that require further clarification we would be happy to answer further questions. Contact details are given at the end of the document.
Section 1 - Introduction

4. We understand that Scottish responses to the 2011 consultation reflected the belief of a range of stakeholders that the guidelines do not provide the most effective methodology for preventing distortion and have the undesirable side-effect of severely restricting the potential for sustainable economic growth. The EU categorisation of airports based on passenger numbers does not reflect the experience and issues faced by regional airports in Scotland. The guidelines continue to be a one-size-fits-all framework which might be appropriate for continental Europe but are competitively disadvantageous to the more peripheral regions of the EU like Scotland. The risks inherent in establishing and maintaining a level of international connectivity in outlying regions compatible with territorial cohesion are not fully reflected in the revised guidelines, particularly in relation to the revised guidelines on start-up aid.

5. The guidelines do not adequately explain why the definition of a regional airport has changed from 5m to 3m passengers per annum. This new categorisation of airport effectively reduces the number of Scottish regional airports eligible for support compared to the previous rules. This can only have a detrimental effect on economic growth in Scotland. It remains our view that domestic air traffic (within the UK) does not distort competition in the wider EU context and therefore the definitions of regional and large airports should be net of domestic passenger numbers.

Regional Services. In the peripheral regions of the EU such as Scotland, where there is no alternative high speed surface transport option, there is a greater reliance on air travel to access existing and developing markets. Catchment area markets are smaller and the risk inherent in starting up new air services is therefore correspondingly greater. Whilst the Commission recognise this, we consider that there is little in the current guidelines that adequately addresses the problem.

Unlike other EU member states, the UK and Scotland have no "national carrier" with an obligation/duty to develop services from regional airports. The embedded strategies of full scheduled carriers are to develop international connections from their hub airports and not from regional airports - placing regions at an immediate disadvantage in connecting with key markets in Europe. UK domestic access to UK hub airports for international connections is reducing, and is likely to reduce further, given the constraints on capacity at the London airports. We believe that direct international services from regional airports can help mitigate the impact of such constraints on hub airports.

6. The aid intensity levels for investment aid to an airport are also arbitrary, as is the proposition that only repayable advances should be permitted for airports with passenger numbers between 3m and 5m per annum. Both require better explanations as to why these levels have been selected.
7. The draft guidelines unfortunately do not give adequate consideration to promoting cohesion and economic development, particularly in those parts of the EU that do not have major hub airports or high-speed rail connectivity.

**Section 4 – Definition of Service of General Economic Interest (SGEI)**

It would be useful if the guidelines made clear the airport activities that would be eligible under an SGEI as there is no reference to these within the SGEI guidelines or Regulation 1008/2008. The 2005 guidelines at Section 4. 53 (iv) made clear the differing eligible activities and the SGEI staff working document makes direct reference to that section when discussing compatible costs.

**Section 5 Compatibility of aid under Article 107(3) TFEU**

Paragraph 72 refers to seven conditions that are required to be met for aid to be compatible but only lists 6.

**Start-up aid**

We believe that the provision for start-up aid for airlines remains of limited value as it continues to fail to recognise the commercial realities and true level of risk inherent in new route development in peripheral regions.

**Eligible costs:** Aid should be related to supporting airlines where there are demonstrable ex ante operating losses during an initial start-up period, rather than to the very limited, permitted support categories of marketing and advertising costs and installation costs for the airline at the regional airline involved. Retaining the very restrictive view on what constitutes eligible costs for Start-up Aid by excluding standard operating costs, airport charges, etc. limits the potential for new routes/frequencies to be assisted under the Guidelines, and as stated above does not take account of the commercial realities of developing new air routes to smaller airports. It could perhaps be argued that such an approach is fair when assisting route developments at larger airports (over 5m ppa) where the commercial risks will be much lower. However, 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.

**Reduction in duration of support:** There appears to be no reasoning to why all Start-up Aid should now be limited to maximum 2 years duration, nor why the dispensation for "disadvantaged regions" (including sparsely populated regions) for duration up to 5 years with higher levels of aid intensity has been removed. 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.

There are also no special (higher) aid intensities or longer support periods for disadvantaged regions or sparsely-populated regions such as the Highlands and Islands area of Scotland. This change is not explained and is particularly disadvantageous to such areas where it always takes longer to establish new routes.

Taken together, the limits on airport size, aid duration and eligible costs for Start-up Aid provide little scope for a compliant scheme to be of much value either to airlines, or in terms of promoting accessibility and economic development of remote or sparsely populated regions.

**Aid for routes out-with the EAA.** We also note that the draft guidelines are silent still on connectivity out-with the EAA. Such links are increasingly important for the maintenance and development of connections with existing and emerging markets and the direct economic benefits these can deliver. It is the Scottish Government’s view that the competition for new routes is not confined to Europe but is global. If peripheral regions are to remain/be economically competitive then support for improved connectivity is needed to share the inherent risk in the start-up of new routes.

However, we are content that the current guidelines appear to have lifted the restriction on support to EU carriers only. With no national carrier, we welcome the relaxation of this condition which will assist regional growth. We seek clarity however, with regard to support out-with the EAA.

Paragraph 113 – we would welcome a full explanation of the expressions ‘duly substantiated exceptional cases’ and ‘under the same conditions’.

**Notification requirements.** 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.

Alternatively regard to investment and operating aid. It would fit with the simplification agenda if for aid for airports under 3m passengers p.a. could be notified under the GBER regulation. Presumably support will be compliant if it adheres to the aid intensities, methodologies and complies with the 7 compatibility criteria at section 5.

Paragraph 112 – it is not clear what conditions in what paragraphs are being referred to here.
Section 6. Aid of a Social Character.

We suggest that there is cross-referral between the different EU regulations as the text makes no reference to the fact that this provision is now exempted under the revised General Block Exemption Regulation (GBER) and notification should be made via that regulation.

In summary, the Scottish Regional Transport Partnerships support the view being expressed by other Scottish stakeholders including the Scottish Government that in a scenario where there is no displacement of services or distortion of competition, strong sustainable economic growth and increased connectivity across Europe and beyond, the annual volume of an airport’s passengers should be immaterial to the consideration of public support. By imposing this arbitrary categorisation the maximisation of route development potential is inhibited. Together with the limits on aid duration and eligible costs for Start-up Aid the guidelines provide little scope for a compliant scheme to be of much value to airlines or to the promotion or success of Scotland’s air connectivity.

For further information on this response please contact:

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