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

Summary

1. The Scottish Government and its agencies (Transport Scotland, Scottish Enterprise, Highlands and Islands Enterprise and Visit Scotland) welcomes 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.

2. Overall we support and appreciate the work undertaken by the Commission to provide updated guidance and clarity on the level of aid that is deemed compatible within the EU aviation industry. We support the Commission’s objective of promoting and safeguarding fair competition by reducing the reliance on public funding by unsustainable airports to ensure an efficient competitive market and an effective use of public funds.

3. However, we are disappointed that concerns we raised in the previous 2011 consultation 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 especially with regard to defining regional airports based on size and the lack of substantial support for new route development.

4. 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 and therefore focus on the level of provision for start-up aid for new routes.

5. 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 this document.

Section 1 – Introduction

6. Our previous response highlighted our belief 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. We argued that 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 may 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.

7. 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.

8. In the peripheral regions of the EU such as Scotland, where there is no alternative high speed 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.

9. 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.

10. The aid intensity levels for investment aid to an airport appear arbitrary, as is the proposition that only repayable advances should be permitted for airports with passenger numbers between 3m and 5m per annum. We would appreciate an explanation of the rationale as to why these levels have been selected.

11. 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)

12. The Scottish Government welcome the continued recognition of the support required to provide public service obligations but it would 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

13. We welcome that the guidance clarifies the levels of permissible aid that can be applied to the funding of airport infrastructure and operating costs. However, we acknowledge that there are exceptions where aid may be justified where it targets market failure in disadvantaged regions and appreciate that the part Services of General Economic Interest play in supporting Scotland’s small, peripheral airports and their local community is still recognised.

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

Start-up aid

15. Scottish Government believes 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

16. 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 up-front marketing and advertising costs and installation costs for the airline at the regional airport involved. We would ask the Commission to consider also supporting the same costs at the destination airport. This could not be considered distortive if every EU Member State benefits from the same rule.

17. 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 that we have experienced in developing new air routes to smaller airports.

18. 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.

19. We would therefore urge the Commission to consider widening the eligible cost criteria to include other operating costs that are loss making in the start-up phase.

Reduction in duration of support

20. There appears to be no rationale as to why all Start-up Aid should now be limited to a maximum of 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.
21. Limiting Aid to a maximum of 2 years restricts the potential for developing commercial air routes to remote/sparsely populated regions which will take on average 3-5 years to mature and/or present a more significant commercial risk to an airline.

22. 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.

23. 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.

24. We would therefore urge the Commission to reinstate the provision of aid over 3 years for new routes from regional airports and the re-instatement of aid provided over 5 years for routes from "disadvantaged regions" (including sparsely populated regions).

25. Section 5.2 (b). It would be useful if the Commission could provide a definition and the content required from the ‘ex-ante business plan’ required to establish the profitability of a new route.

**Aid for routes out-with the EAA**

26. 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.

27. We seek clarity with regard to support to start up aid to airlines for new routes out-with the EAA.

28. The current guidelines restrict support to EU carriers only. The new guidelines however, appear to have lifted that restriction. We would appreciate clarity on this point as we believe real benefits will be had by allowing aid to non-EU carriers to develop routes with EU Member States as this would increase the scope and competition for new services to be developed in peripheral regions by providing a larger pool of eligible airlines who may be enticed to provide links to their hub airports.

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

30. 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 the position with regard to individual notification at Annex III with regard to the notification of start-up aid was clear.

31. Alternatively, once the Commission gain experience of Member States ability to comply with the new guidelines, and with regard to investment and operating aid it would fit with the simplification agenda if aid for airports under 3m passengers p.a. could in future be block exempted 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.

32. Paragraph 112 – it is not clear what conditions in what paragraphs are being referred to here. We would appreciate clarity.

Section 6. Aid of a Social Character

33. We welcome that this provision is still recognised as necessary for the inclusion of residents in remote and peripheral areas but suggest that there is cross-referral between the different EU regulations with regard to notification 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.

Section 8 Final Provisions

34. We support the Commission’s position that all aid should be transparent to ensure best value however, we feel that the suggestion that all aid awarded is entered into a central website at Member State level will be an additional administrative burden on Member States and could be of high cost and resource intensive. As this appears to be a requirement across the majority of revised state aid rules we would suggest that the Commission develop a central database or website, similar to the SARI system, that is available, at no cost, to all Member States. This would ensure consistency of information and reporting and would relieve Member States of the burden of the set up cost such a system build would require.

In Summary

35. We consider 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.

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