Swedish remarks and proposals on the Commission’s draft guidelines on State aid to airports and airlines

Sweden has reviewed the Commission’s proposal for guidelines on State aid to airports and airlines. Sweden partly agrees with the Commission’s proposal. However, deeply concerned, the Swedish Government questions and notes that Sweden will encounter difficulties in the application of the guidelines especially for geographical areas where an adequate accessibility for citizens and industry cannot be achieved with other modes of transport than by air services.

The importance of regional airports in Sweden

The regional airports in Sweden play an important role in the transport system by offering fast and efficient domestic passenger- and freight transport. About 40 per cent of all the flight travels in Sweden are domestic travels. They are essential in contributing to, as well as creating an increased accessibility, job opportunities and growth in all parts of the country, for the benefit of both citizens and industries.

Some of the airports also have an important role in supporting the state of alert for transports, such as transportation of organs and air ambulance, in order to ensure access to public health in the entire country. According to Article 168 Treaty on the functioning of the European Union (TFEU) the Union shall take into consideration high level of protection of human health. In this regard Sweden points out that the exercise of the rights to public health often depends on the well-functioning of regional airports. In addition, some airports also serve military purposes.

Sweden is of the opinion that in the analysis following the enforcement of the guidelines, appropriate consideration must be taken to balance different public interests. On one hand there is a need to take measures for the establishing of the competition rules necessary for a level playing field and the functioning of the internal market. On the other hand,
there is a need to maintain a reliable and acceptable accessibility for the growth in sparsely populated areas.

In the major part of Sweden, provision of airport and airline services to citizens is the only effective mean to ensure and secure accessibility. Often with focus on domestic traffic, which does not threaten to distort competition within the European Union. Sweden is of the opinion that the call for liquidation of the operating aid needs to be balanced against the assessment of the effects on accessibility and operation of the air services and when necessary followed by a more flexible assessment of the character of operations.

The Swedish Government is deeply concerned that the proposed guidelines do not take into consideration the specific conditions in Sweden and Northern Europe. In Sweden and the other Nordic countries, where great distances in combination with areas that are extremely sparsely populated create specific demands on the transport systems. State aid to airports and airlines strongly contributes to maintain a reasonable and necessary accessibility for Swedish airports. The airports do not only connect the different Swedish regions with each other but also connect these regions with the rest of Europe.

According to the Treaty of Accession of Austria, Finland and Sweden (1994) and Article 174 TFEU, the European Union must develop and pursue the operations to strengthen its economic, social and territorial cohesion. Among the concerned regions specific consideration must be taken to partly rural areas, or areas affected by structural transformations and partly regions with severe and permanent environmental inflicted and demographic disadvantages such as the most remote Nordic regions which are sparsely populated. When forming and implementing the Union policy and measures taken when implementing the single market the Union shall consider the goals of Article 174 TFEU and contribute to the achievement of them. When making a comprehensive assessment of the regional airports possibilities to receive state aid this should be taken into consideration.

Comments and proposals to changes or clarifications of the guidelines in order to make them clearer and easier to follow

Timetable for phasing out State aid

The phasing out levels over time and the total phasing out time for an individual airport need to be more flexible. Sweden suggests that the rules for phasing out operation aid should be changed in such a way that they correspond to a specific airport’s situation.
The Swedish regional airports have during the last years gone through extensive rationalisation measures in order to cut down operating costs. However, the need for State aid remains. For the majority of the Swedish regional airports Sweden has reasons to believe that the margins are so low that the airports will not even manage the first year of phasing out State aid successfully, using the proposed transitional period and levels.

Therefore a phasing out period needs to be at least 15 years and the phasing out levels more flexible in order to allow the individual airport to improve their business plan and make the necessary structural changes with the aim to reduce the state aid in a more methodical way.

Proposed changes in p.106 and 107

p. 106.
The initial operating cost coverage shall be defined as the average of the three years that precede the beginning of the transitional period (i.e. 2011 to 2013). The airport shall progressively increase this initial operating cost coverage and shall during a transitional period of maximum 15 years have reached full cost coverage, by at least an average of 10 % per annum until full operating cost coverage is reached. For instance, if the initial operating cost coverage of an airport amounts to 60%, it shall be increased by at least 10% per annum over a period of 4 years. After this period, no more operating aid shall be paid to the airport.

p. 107.
By [10 years after the beginning of the transitional period] at the latest, all airports must have reached full coverage of their operating costs and No operating aid to airports will be allowed henceforward, with the exception of operating aid granted in line with general State aid rules.

The airports passenger volumes

Sweden notes that the Commission in the proposed guidelines identify that an airport having fewer than 1 million passengers per annum typically is struggling to cover its operating costs. The Swedish regional airports play an important role in the nationwide transport system and the vast majority of them have passenger volumes below 1 million. Sweden invites the Commission when assessing State aids to airports to take into consideration specific national or regional particularities such as need for reasonable and necessary accessibility in sparsely populated areas, long distances, adverse climate conditions and access to public health, when assessing compensation for SGEI-services to airports with passenger volumes between 200 000 and 1 million per annum.
Clarification about airport military services

For clarification Sweden proposes that the following sentence is inserted in point 32.

Proposed changes in p. 32
The Court has held that activities that normally fall under State responsibility in the exercise of its official powers as a public authority are not of an economic nature and do not fall within the scope of the rules on State aid. At an airport, activities such as air traffic control, police, customs and activities necessary to safeguard civil aviation against acts of unlawful interference are considered to be of a non-economic nature. If an airport or a part of an airport is used for military purposes, the costs connecting to these purposes are of a non-economic nature.

Reporting
While we recognize the Commissions considerations regarding State aid control and monitoring, it is also of significant importance that the requirements are proportionate in relation to the added value of introducing centralised websites. It is important that the Commission communicates to the Member States exactly what information the Commission considers is essential to report. It is important to have uniform information in order to increase transparency. Setting up a central website, appointing an administrator and communicating the rules for reporting to all parties involved will be very time consuming. Therefore the implementing period of 12 months is not sufficient.

Proposed changes in p. 120
Considering that the Member States must report (at the latest the 30th of June 2014) which SGEI-services Member States have and the amount of compensation granted, Sweden asks the Commission to clarify that SGEI-airports should not be added in the website report.
Sweden notes that a number of the Swedish airports are used for both civil and military purposes. This will need to be considered when assessing an individual airport following the requirements in the guidelines. Likewise, Sweden is of the opinion that in accordance with Articles 346 and 348 TFEU the names of the airports that have been appointed as a part of the military organisation shall be confidential.
Sweden sees difficulties in following the reporting obligation, for those parts of the State aid that comes from the defence budget and invites the Commission to a dialogue on how to resolve it.

Transitional period
In regard of the current Commission proposal, an extensive work is required to implement the guidelines and offer the airports sufficient support to make the analysis, in a transparent and homogenous manner. It is also very possible that the changed prerequisites stated in the
guidelines will lead to changes in the Swedish legislation which involves the Swedish parliament.

Sweden therefore suggests that the Commission imposes a longer transition period, e.g. 24 months, in order to facilitate a smoother adaptation to the guidelines for all parties concerned.

Translation errors in the Swedish version of the draft guidelines

In reviewing the proposal the Swedish Government has found examples on translation errors that may be misleading. Some examples:

In point 10 of the proposal for Guidelines last sentence, the translator has used the word 'replaced' in "They replaced the previous aviation 1994 guidelines .." From the point 19 of the 2005 proposal shows that they do not replace the old ones from 1994 but supplement them. In the English version of the proposal the used word is "supplemented".

In point 68 paragraph 1 of the proposal, the translator has used the word 'agreement' .. during the term of the agreement ..". Under Article 4 of the Commission's decision states that there is no restriction that this must be regulated by an agreement. It says explicitly that it should be entrusted to the undertaking concerned by one or more official acts, of which each Member State may determine the form. In the English version of the proposal this is expressed by the SGEI entrustment [the Swedish translation is limited to an agreement].