Consultation on the Draft Guidelines on State Aid to Airports and Airlines: Response from the Welsh Government

Introduction

1. The Welsh Government recognises the European Commission’s work on the revised draft Guidelines on State aid to airports and welcomes this opportunity to contribute to this consultation.

General Comments

2. Aviation in Wales is an important economic and social asset and of critical importance to current economic competiveness and future economic prosperity.

3. It has a role to play in helping to address some of the regional imbalances in the UK economy and directly contribute toward a number of mutually beneficial outcomes, including a growth in quality employment opportunities; enabling tourism, inward investment and trade connectivity; and strengthening an already growing aerospace cluster.

4. There is only one international airport in Wales, Cardiff Airport. This already has an economic impact as a direct employer and through its wider catalytic effects. Its primary operations employ around 1,000 people while a further 800 jobs are provided by the British Airways Maintenance Cardiff (BAMC) facility. A further 860 jobs are supported through indirect and induced activities.

5. Recognising its importance to Wales, the Welsh Government became the sole shareholder of Cardiff Airport, earlier this year. The airport is managed at arm’s length and on a commercial basis, with significant potential regional economic development impacts and a strong social role in improving connectivity.

6. In broad terms the Welsh Government recognises that the draft Guidelines are helpful in bringing increased clarity across important areas and in consolidating case law. In our view this represents a positive improvement that will help broaden awareness and understanding of the draft Guidelines.
Specific Comments

Areas of agreement

7. The Welsh Government recognises the European Commission’s acknowledgement, as evidenced in paragraph 53, that “a large majority of EU airports are benefitting from public funding to cover investment and operating costs” and that these airports could only “remain on the market with public support”. We consider this is an important acknowledgement that helps frame the context of the draft Guidelines.

8. The definition of investment aid intensity ceilings provides a good example of the improved clarity in these draft Guidelines. Overall we note the statement of maximum permissible aid intensity depending upon the size of the airport, as defined by passenger numbers per year, in paragraph 92.

9. We note also the fact that airports with fewer than 1 million passengers per annum have been set a maximum investment aid intensity of up to 75% and airports between 1 million and 3 million passengers per annum up to 50% maximum investment aid intensity.

10. The useful guidance on the Market Economy Operator Principle (MEO) set out in paragraphs 43 – 49 of the draft Guidelines is also welcome as is the clarification of the conditions for which investment from public resources, through an airport manager, can be deemed compatible with MEO.

11. We agree with the recognition at paragraph 80 that the “need for public funding of new infrastructure or replacement and maintenance of existing infrastructure… will normally be greater for smaller airports”. We also note the clarification of the types of airport that may not normally be able to cover their capital and/or operating costs.
Areas requiring further clarification

12. In addition to the above broad areas of agreement, there are a number of specific and significant issues which would benefit from further clarity. The main point concerns the public funding of non-economic activities as set in paragraphs 32-34.

13. Whilst the draft Guidelines as a whole provide useful clarity, paragraphs 32-34 are not clear in terms of activities that are “not of an economic nature”. The following examples of non-economic activity are provided in the draft Guidelines:

- air traffic control
- police, customs
- activities necessary to safeguard civil aviation against acts of unlawful interference.

14. Definitions of various terms are set out in the list at Annex 1 but the term “non-economic activities” is not defined. It would be helpful if a clearer definition of what constitutes non-economic activities could be included in the draft Guidelines, with a fuller list of such activities and with as wide a scope as possible.

15. There is also an apparent inconsistency between paragraph 33, which refers to public funding of non-economic activities not constituting State aid and paragraph 34, which states that the public funding of non-economic activities must not lead to undue discrimination between airlines and airport managers. This paragraph suggests that public funding for non-economic activities could constitute State aid if it distorts competition.

16. This is seemingly contradictory not only to the clear statement about non-economic activities not constituting State aid in paragraph 33, but also to the tests for the existence of State aid as derived from Article 107(1) of the Treaty on the Functioning of the European Union. We would not want the Commission to
rule that the funding of airport-related non-economic activity would constitute State aid, but it would be helpful if the Commission could clarify this issue in order to provide reassurance.

17. Other issues upon which would benefit from further clarity in the draft Guidelines concern:

- paragraph 75 which encourages Member States to design national schemes regarding public funding of airports and compatible with State aid,

- paragraphs 101 – 111 on operating aid to airports, and

- paragraph 113 on start-up aid to airlines.

18. In terms of paragraph 75, we note that the draft Guidelines encourage Member States to design national schemes but would request clarification upon whether, in the absence of a national scheme, notifications of individual awards of aid would be placed at a disadvantage. We would favour a flexible approach, whilst we recognise reasons for the Commission to encourage national schemes, we think it important that individual notifications receive equal treatment and are not placed at a disadvantage. This is particularly important in instances where some regions within Member States may have specific issues which are not necessarily recognised at a Member State level.

19. On aid to operating airports (paragraphs 101-11) we note that operating aid can be granted for a period of up to 10 years, subject to criteria being met. However, this interpretation seems broader than the “exceptional circumstances” cited earlier in the draft Guidelines at paragraph 14. Clarity on this point is needed. There also needs to be greater clarity, given that Member States are “strongly” encouraged to notify national schemes for operating aid, as to whether individual notifications for operating aid would be placed at a disadvantage. As above, we would favour equality of treatment between national schemes and individual notifications.
20. Finally, paragraph 113 on start-up aid to airlines states that a public body must make its plans public in “good time”. It would be helpful if the draft Guidelines could be more specific on this point.

Conclusion

21. We welcome the steps that the Commission has taken on the revised draft Guidelines and hope that Commission find the Welsh Government’s response useful in taking forward this important piece of work. It is in the interests of every Member State that appropriate Guidelines are in place that recognise future trends in the demand for air travel, the role of airports and air services in assisting regional development and the importance of aviation to the broader European economy.

22. Given the importance of aviation and airports development to Wales, the draft Guidelines on State aid to airports and airlines will have an on-going relevance to future policy development. The Welsh Government is therefore keen to remain engaged in the development of this work.