



EUROPEAN COMMISSION

Brussels, 07/05/2014

C/2014/2626/2

PUBLIC VERSION

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Subject: State aid n° SA.38441 (2014/N) – United Kingdom – Isles of Scilly Air links

Sir,

1 PROCEDURE

- (1) On 27 January 2014, the UK authorities pre-notified a measure concerning the modernisation of the St. Mary's airport infrastructure and the Land's End airport infrastructure (hereinafter “the measure”). The measure was registered under the state aid case number SA.38255. The measure was notified on 7.3.2014. The UK authorities consider that the measure does not constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union (“TFEU”), but have notified it for the purpose of legal certainty.

2 DESCRIPTION OF THE MEASURE

2.1 St. Mary's Airport

- (2) The airport of St. Mary's is located on the Isles of Scilly, which are isolated remote islands in the Atlantic, 45 km to the west of the Cornish peninsula. It is owned by the

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Duchy of Cornwall and held on a long lease and operated by the Council of the Isles of Scilly (the "Council"). The Council is a local authority in the UK and the direct beneficiary of the measure.

- (3) St. Mary's airport currently serves slightly less than 100.000 passengers per annum and passenger numbers have been falling in the past years.

Year	Number of passengers
2013	90 072
2012	97 012
2011	112 515
2010	115 194

2.2 The investment project and its financing

- (4) The notified project mainly aims at modernisation of the infrastructure by addressing deficiencies and improving the functionality of St. Mary's airport. The envisaged investment project relates in particular to

- the enhancements of the runways, but includes also
- modernisation of the approach lighting and navigational aids, as well as
- modernisation of the terminal building and terminal externals with regards to passenger handling and operational issues.

- (5) The work is planned to be carried out as soon as possible in 2014. The main objective of the measure is to improve operational safety for aircraft handling at the airport, as the runway is close to or below the minimum friction level as required by the Civil Aviation Authority.

- (6) The total investment amounts to approx. EUR 7 880 166.¹ This investment project will be financed completely (100%) through public funding: the funding for the project is expected to comprise of, first, £5 477 000 of European Union assistance in the form of European Regional Development Fund (ERDF) funding (subject to approval). Second, £1 000 000 from the Department for Communities and Local Government (DCLG) through the Regional Growth Fund (RGF).

- (7) According to the UK Authorities the whole amount corresponds to “aeronautical” economic activities. The total investment costs can be broken down as follows:

Element Costs	RGF	ERDF	Total
St Mary's Runways	£360 432,77	£1 971 567,23	£2 332 000

¹ GBP 6 470 000

St Mary's navigational Aids and Lighting	£89 180,83	£487 819,17	£577 000
St Mary's Terminal Building	£358 887,17	£1 963 112,83	£2 322 000
St Mary's Terminal Building Externals	£92 117,47	£503 882,53	£596 000
Fees ²	£99 381,76	£543 618,24	£643 000
Totals	£1 000 000	£5 470 000	£6 470 000

2.3 Land's End Airport

- (8) The airport of Land's End is located at St. Just in Cornwall and is owned and operated by the Isles of Scilly Steamship company Limited (the "IOSSCo"), a privately owned company. The IOSSCo was set up in the 1920's to provide transport links to the mainland and over 50% of the company's shares are owned by the Islanders. The IOSSCo is the direct beneficiary of the measure.
- (9) Land's End airport only serves flights to St. Mary's airport and serves around 30 000 passengers per annum. The passenger numbers have been falling in the past years.³

Year	Number of passengers
2013	46 000
2012	31 964
2011	33 098
2010	29 509

- (10) The two closest airports are Newquay in Cornwall (78 km from Land's End airport with a journey time of 1 hour and 20 minutes by car) and Exeter in Cornwall (200 km from Land's End airport with a journey time of 2 hours and 40 minutes by car and 4 hours by train).

² These amounts comprise the following fees: Planning (Indogo), architects (Kensington Taylor), Engineers (URS), project management by external consultants (Sweett Group), EIA scoping (Indigo), legal advice on state aid (Ashfords), quantity surveying (Sweett Group), CAA licensing and approvals, project Coordination role for CAA (URS), structural, asbestos and other surveys.

³ The increase in passengers in 2013 can be explained by the fact that the British International Helicopter Service ceased to operate from St. Mary's airport to the city of Penzance in October 2012. This led to a modal shift from helicopter passengers to airline and ferry services.

2.4 The investment project and its financing

- (11) The notified project mainly aims at modernisation of the infrastructure by addressing deficiencies and improving the functionality of Land's End airport. The envisaged investment project relates in particular to
- the hardening of the grass runways by changing them to asphalt runways, but includes also
 - modernisation of the approach lighting and navigational aids.
- (12) The work is planned to be carried out as soon as possible in 2014. The main objective of the measure is to render the airport again operational as it is currently as in previous periods closed due to flooding conditions. The project will improve the reliability and safety at Land's End airport.
- (13) The total investment amounts to approx. EUR 3 177 035.⁴ This investment project will be financed to 50% through public funding. The funding for the project is expected to comprise of, first, £1 303 821 of European Union assistance in the form of European Regional Development Fund (ERDF) funding. Second, 50% of the project will be financed through the private sector, as £1 303 821 will be financed by the Isles of Scilly Steamship Company (IOSSCo), which is the owner and operator of Land's End airport.
- (14) According to the UK Authorities the whole amount corresponds to “aeronautical” economic activities. The total investment costs can be broken down as follows:

Element Costs	Private Sector	ERDF	Total
Land's End Airport Runway Hardening	£1 194 321,50	£1 194 321,50	£2 388 643
Land's End Airport navigational Aids and Lighting	£109 500	£109 500	£219 000
Totals	£1 303 821,50	£1 303 821,50	£2 607 643

- (15) The aid intensity (amount of State aid divided by costs eligible for State aid) amounts to 50%

2.5 Legal basis

- (16) The Legal basis for the financing of the two investments projects at St. Mary's airport and Land's End airport is section 1 of the Localism Act 2011 and sections 1, 2 and 3 of the Airport Act 1986 as well as Council Regulation (EC) No. 1083/2006, "Laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No. 1260/1999.

⁴ GBP 2 607 643

3 ASSESSMENT OF THE MEASURE

3.1 Existence of aid

- (17) By virtue of Article 107(1) of the TFEU "*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.*"
- (18) The criteria laid down in Article 107(1) of the TFEU are cumulative. Therefore, in order to determine whether the notified measures constitute State aid within the meaning of Article 107(1) of the TFEU all of the following conditions need to be fulfilled. Namely, the financial support:
- is granted by the State or through State resources,
 - favours certain undertakings or the production of certain goods,
 - distorts or threatens to distort competition, and
 - affects trade between Member States.

Notion of undertaking and economic activity

- (19) According to settled case law, the Commission must first establish whether St. Mary's airport and Land's End airport are undertakings within the meaning of Article 107 (1) of the TFEU. The concept of an undertaking covers any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed⁵. Any activity consisting in offering goods and services on a given market is an economic activity.⁶
- (20) In its "*Leipzig-Halle airport*" judgment the Court of Justice confirmed that the operation of an airport for commercial purpose and the construction of airport infrastructure constitute an economic activity⁷. Once an airport operator engages in economic activities, regardless of its legal status or the way in which it is financed, it constitutes an undertaking within the meaning of Article 107(1) of the TFEU, and the Treaty rules on State aid therefore apply⁸.
- (21) The Commission notes that the infrastructures, which are the subject of the present decision, will be operated on a commercial basis by the airport managers of St. Mary's airport and of Land's End airport. Since the airport operators will charge users for the

⁵ Case C-35/96 *Commission v Italy* [1998] ECR I-3851, para 36; C-41/90 *Höfner and Elser* [1991] ECR I-1979, para 21; Case C-244/94 *Fédération Française des Sociétés d'Assurances v Ministère de l'Agriculture et de la Pêche* [1995] ECR I-4013, para 14; Case C-55/96 *Job Centre* [1997] ECR I-7119, para 21.

⁶ Case 118/85 *Commission v Italy* [1987] ECR 2599, para 7; Case 35/96 *Commission v Italy* [1998] ECR I-3851, para 36.

⁷ Joint Cases T-455/08 *Flughafen Leipzig-Halle GmbH and Mitteldeutsche Flughafen AG v Commission* and T-443/08 *Freistaat Sachsen and Land Sachsen-Anhalt v Commission*, (hereafter: "*Leipzig-Halle airport case*"), [2011] ECR II-01311, confirmed by the ECJ, Case C-288/11 P *Mitteldeutsche Flughafen and Flughafen Leipzig-Halle v Commission*, [2012], not yet published in the ECR; see also Case T-128/98 *Aéroports de Paris v Commission* [2000] ECR II-3929, confirmed by the ECJ, Case C-82/01P, ECR 2002 Page I-9297, and Case T-196/04 *Ryanair v Commission* [2008], ECR II-3643.

⁸ Cases C-159/91 and C-160/91, *Poucet v AGV and Pistre v Cancave* [1993] ECR I-637.

use of these infrastructures, they are commercially exploitable. Furthermore, the envisaged investment into the modernisation of the ground lighting at both airports will allow the airports to offer airport services by low visibility and improve the safety of the airport operation. Moreover, the Commission observes that the improvement of the safety of the airport operation corresponds to normal costs of an economic activity that cannot be considered to fall within the public policy remit.⁹ It follows that the entities exploiting these infrastructures constitute an undertaking for the purposes of Article 107 (1) of the TFEU.

Use of state resources and imputability to the State

- (22) The funding at St. Mary's airport will come from the European Regional Development Fund (ERDF). The ERDF's contribution should be considered as state resources based on a well-established decisional practice¹⁰. In addition funding will come from the Department for Communities and Local Government (DCLG) through the Regional Growth Fund (RGF). Funding provided by this entity is thus attributable to the State and constitutes State resources.
- (23) The funding at Land's End airport will come from European Union assistance in the form of European Regional Development Fund (ERDF). As explained above, The ERDF's contribution should be considered as state resources.

Economic advantage

- (24) The above-mentioned public funding reduces the investment costs that the airport operators of St. Mary's airport and of Land's End airport would normally have to bear, if they wanted to expand or improve its efficiency, and therefore it confers an economic advantage on the airport operators.

Selectivity

- (25) Article 107 (1) TFEU requires that a measure, in order to be defined as State aid, favours "*certain undertakings or the production of certain goods*". The Commission notes that the advantages in question would be granted to St. Mary's airport and of Land's End airport only. Thus it is a selective measure within the meaning of Article 107 (1) of the TFEU.

Distortion of competition and effect on trade

- (26) When aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing in the internal market, the latter must be regarded as affected by that aid. In accordance with settled case law¹¹, for a measure to

⁹ Commission decision of 20 February 2014 in State aid case SA.35847 – 2013/N – Czech Republic – Ostrava Airport, not yet published in OJ.

¹⁰ The resources of the ERDF which are transferred to the relevant national authority or body designated for that purpose by the Member State before being paid to the beneficiary are considered to be at the disposal of the national authorities and therefore amount to state resources, see point 48, decision of the Commission of 22 February 2012 in case SA.30742 (2010/N) Klaipeda port, OJ C 121, 26.4.2012, p.1; point 38, decision of the Commission of 9.11.2011 in case SA.32632 (2011/N) ETGE, OJ C 82, 21.3.2012, p.2.

¹¹ Case T-214/95 *Het Vlaamse Gewest v Commission* [1998] ECR II-717.

distort competition it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.

a) *St. Mary's Airport*

- (27) St. Mary's airport is one of the four regional airports in Cornwall and Devon, the others being situated in Land's End, Newquay and Exeter. St. Mary's airport is a crucial economic and social infrastructure for the Isles of Scilly as it provides for the only air access to the islands and to the mainland for the 2200 residents and for visitors.
- (28) St. Mary's airport is the only airport on the Isles of Scilly. In this specific situation of the operator of St. Mary's airport there is no other undertaking to compete with this operator – no other airport operator exists on the Isles of Scilly that could possibly compete with St. Mary's airport on airport operations from the Islands.
- (29) Similarly, the three regional airports in Cornwall on the mainland, Land's End, Newquay and Exeter, do not compete with St. Mary's airport, either. On the contrary, St. Mary's airport sends air traffic to the other three regional airports.
- (30) In light of the above it can be concluded that St. Mary's airport is not in competition with any other airport.
- (31) The only other means of passenger transport to and from the Isles of Scilly and with which the airport may be in competition is the ferry service. However, these two transport services are fundamentally different travel solutions. The journey by plane from St. Mary's airport to the nearest mainland airport (Land's End airport) lasts 15 minutes compared to the journey on the ferry to the mainland which lasts about 2 hours and 40 minutes. Due to the timetable of the ferry service it is impossible to commute to the mainland from the islands on the same day. The ferry service is therefore incompatible with the needs of many residents who have to travel on day trips to the city of Penzance on the mainland for education, health or business appointments. Moreover, the airport operates throughout the year whilst the ferry service only operates in the summer.
- (32) In light of the above it can be concluded that the airport service and the ferry service are fundamentally different from each other. They operate on different markets and are not in competition with each other.
- (33) The improvement of the infrastructure of St. Mary's airport is not liable to give any advantage to the operator of the aircraft service over the ferry operator either. Both operators are the same entity, as the aircraft service and the ferry service are operated both by the IOSSCo. Despite several attempts to find other commercial airlines with appropriate aircrafts, no other commercial airline has ever shown interest to provide air services to the Isles of Scilly. It can be concluded that the modernisation of the infrastructure of St. Mary's airport is not giving an advantage to the operator of the aircraft service over other operators of transport services to the islands.
- (34) Furthermore, it is the Commission's view that neither the competitive situation of the St. Mary's airport nor traffic flows to and from the Isles of Scilly will be considerably altered as a consequence of infrastructure investments under scrutiny. The Commission takes particular note of the fact the investment is not aimed at increasing

capacity at the airport. Instead, the measures are designed to improve the security and safety at the airport and to conform to standards in order to ensure that St. Mary's airport can maintain an efficient and safe airport that will guarantee the island's connections with the mainland.

- (35) The financial assistance is directed at an airport which generates air service only within the region of south-west Cornwall to the regional airports of Land's End, Newquay and Exeter. There are no domestic flights from St. Mary's airport to any other destinations further away or any international flights.
- (36) The reason for the very local air service is the length of the runways. The runways are very short (600m) and due to the proximity to the sea, housing and slopes as well as archaeological sites they cannot be extended. The airport can therefore only offer air access under restricted conditions, as only very small planes with a maximum payload capacity of 8-16 passengers can land on the runways. These planes have no toilets and can fly for maximum of around an hour flight time making them impossible to use for longer journeys (also due to the lack of re-fuelling facilities at St. Mary's airport). This means that St. Mary's airport is restricted to offer only very short regional domestic flights to the mainland, i.e. Cornwall.
- (37) St. Mary's airport has a very small and regional passenger volume. The annual passenger volume of St. Mary's airport is around 90 000. 30% of these passengers are residents and 70% are visitors to the islands. 99% of these visitors to the islands originate from the UK and even 45% of these visitors originate from the south of the UK. St. Mary's impact on international air traffic (if any) is insignificant.
- (38) Given the exceptional nature of the above mentioned circumstances, the Commission concludes that the public contribution granted to St. Mary's airport is not liable to distort competition and affect trade between Member States within the meaning of Article 107(1) TFEU.¹² Consequently, no State aid element within the meaning of that Article is present.

b) Land's End Airport

- (39) Land's End airport is one of four regional airports in Cornwall and Devon, the others being situated in St. Mary, Newquay and Exeter. Land's End airport is the only airport that provides for air services to only one destination -the Isles of Scilly. The airport has grass runways and due to flooding of the grass land the airport has been shut down for several months several times in the past. Only very small planes with a maximum payload capacity of 8-16 passengers use Land's End airport. These planes have no toilets and can fly for maximum of around an hour flight time making them impossible to use for longer journeys. The annual passenger volume of Land's End airport is around 46 000.
- (40) Although Land's End airport is a very small airport and only offers local or regional air services to the Isles of Scilly, public funding for Land's End airport may distort competition and have an effect on trade between Member States. Also a relatively small airport can compete with other airports to attract new clients. Both airports of

¹² See Commission decision of 29 October 2003, Dutch marinas, OJ L34, 6.2.2004; Commission decision of 22 September 2004, Elba II, OJ C100 of 26.4.2005

Newquay and Exeter are oriented to serve the tourist market and offer regional, domestic and many international flights, in contrast to Land's End which offers essentially regional transport services to meet the needs of the residents of the Islands. However all three airports offer flights to the Isles of Scilly and in particular in the tourist sector the three airports may compete. The measure at stake will strengthen the attractiveness of Land's End airport due to more reliable flight schedules and therefore also strengthen its position vis-à-vis the airports of Newquay and Exeter. Therefore the measure has the potential to distort competition and affect trade between Member States.

- (41) For the reasons set out above the Commission concludes that the public funding of the infrastructure measures at Land's End airport constitute State aid within the meaning of Article 107 (1) of the TFEU. Insofar as the grant was subject to Commission's approval, UK has respected the standstill obligation laid down in Article 108 (3) of the TFEU.

3.2 Compatibility of the aid at Land's End airport

- (42) The Commission has assessed if the aid is compatible with the internal market.

Compliance with the 2014 Aviation Guidelines¹³

- (43) The measure at Land's End airport should be assessed upon the basis of Article 107 (3) (c) TFEU, which stipulates that: "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*", may be considered to be compatible with the internal market. In this regard, the 2014 Aviation Guidelines provide a framework for assessing whether aid for the financing of airport infrastructures may be declared compatible pursuant to Article 107 (3) (c) TFEU. They set out a number of criteria which the Commission takes into account when assessing the measure at stake.
- (44) According to point 79 of the 2014 Aviation Guidelines the Commission has to examine whether following cumulative conditions are met:
- (a) contribution to a well-defined objective of common interest: a State aid measure must have an objective of common interest in accordance with Article 107(3) TFEU;
 - (b) need for State intervention: a State aid measure must be targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself, for example by remedying a market failure or addressing an equity or cohesion concern;
 - (c) appropriateness of the aid measure: the aid measure must be an appropriate policy instrument to address the objective of common interest;
 - (d) incentive effect: the aid must change the behaviour of the undertakings concerned in such a way that they engage in additional activity which they

¹³ Communication from the Commission, Guidelines on State aid to airports and airlines, OJ C 99, 4.4.2014, p. 3.

would not carry out without the aid or they would carry out in a restricted or different manner or location;

- (e) proportionality of the aid (aid limited to the minimum): the aid amount must be limited to the minimum needed to induce the additional investment or activity in the area concerned;
- (f) avoidance of undue negative effects on competition and trade between Member States: the negative effects of the aid must be sufficiently limited, so that the overall balance of the measure is positive;
- (g) transparency of aid: Member States, the Commission, economic operators, and the public, must have easy access to all relevant acts and to pertinent information about the aid awarded thereunder as outlined in section 8.2.

(a) Contribution to a well-defined objective of common interest: a State aid measure must have an objective of common interest in accordance with Article 107(3) TFEU

- (45) According to the UK, the main aim of the financing of the infrastructure project at Land's End is to maintain and improve the accessibility of the region, and thus to increase the connectivity of a region as well as to stimulate the regional development and to safeguard the existing jobs.
- (46) Land's End airport is the closest airport to the Isles of Scilly in comparison to the other two regional airports. The airport of Newquay is 77km away from Land's End airport with a journey time of 1 hour and 20 minutes by car¹⁴ and the airport of Exeter is 200 km away from Land's End airport with a journey time of 2 hours and 40 minutes by car¹⁵ and 4 hours by train. These two airports are therefore no alternative for residents of the Isles of Scilly when in need of the shortest journey to the mainland, i.e. the city of Penzance which offers the closest health care and educational and business offers. The new investment thus concerns an airport which plays a pivotal role in the accessibility of the Isles of Scilly/the mainland.
- (47) The project aims at modernisation of the infrastructure by addressing deficiencies and improving the functionality of the airport. This includes hardening the grass runways by changing to asphalt and improving the approach lighting and navigational aids. Because of the inadequate quality of the infrastructure, the airport was already many times closed for several months due to flooding of the grass runways. This modernisation is particularly important for the connection of the residents to the mainland as well as for the tourism, which plays an important role for the Isles of Scilly. A reliable air service to and from Land's End airport will help to maintain the number of visitors each year, which have been declining in the past years due to unreliable air services. The project will address the traffic isolation of the region. Its development will boost quality of service, regional development, communal and social infrastructure.

¹⁴ It can be considerably more with the congested road network, especially during the summer.

¹⁵ It can be considerably more with the congested road network, especially during the summer.

- (48) Without the investment project a significant decline in the quality of accessibility to the Isles of Scilly would be experienced, along with a total collapse of Land's End airport's functionality.
- (49) Moreover, the UK authorities have demonstrated on the basis of sound passenger and freight forecasts that the infrastructure project meets the medium-term demand of the airline and passengers. This is so in particular due to the absence of any other airport that provides such short access (flights of 15 minutes) to the Isles of Scilly/the mainland. The Commission notes, that the forecast for passengers and freight shows that due to the runway hardening and the improved reliability of the airport there will be fewer flights cancelled and therefore a slight increase in passenger numbers and freight volumes will occur.
- (50) On the basis of the above mentioned forecasts for passenger numbers, in the medium-term, the development project for Land's End airport offers good perspectives for use, as the existing infrastructure will be optimised to function all year round.
- (51) The Commission can therefore conclude that the construction and operation of the infrastructure meets a clearly defined objective of common interest.
- (b) Need for State intervention: a State aid measure must be targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself, for example by remedying a market failure or addressing an equity or cohesion concern*
- (52) Land's End airport is a very small airport with less than 50 000 passengers per annum. As such it faces difficulties in ensuring the financing of the investment project without public funding.¹⁶
- (53) According to the UK authorities the IOSSCo have already invested considerably in the infrastructure of Land's End airport in the last year. This included the construction of a new airport terminal, a new administration office and the purchase of an aircraft on a 3 year lease agreement. The IOSSCo have limited cash resources to complete the runway hardening project without additional financial support. The cost of the runway hardening project and the cost of borrowing do not meet the investment criteria set by the IOSSCo Board: The cost of the project has been estimated at £2 600 000. Without the hardening, the airport remains susceptible to flooding and passengers will have to be transported to other airports at the expenses of IOSSCo. These costs were £122 700 in 2012. The payback period of the project to prevent these expenses is 21,17 years. The estimated life expectancy of the runway is 18-20 years, thus shorter than the payback period foreseen for the investment. The Commission notes that the life expectancy as indicated seems reasonable in view of the predominant difficult weather conditions at Land's End.
- (54) With a 50% funding of the project by the ERDF the payback period would be reduced to ten years and could be afforded by the IOSSCo.

¹⁶ See point 89 (a) of the 2014 Aviation guidelines

(55) The Commission concludes that the aid will bring a material improvement for the investment project that the market itself does not deliver and that there is a need for state intervention.

(c) Appropriateness of the aid measure: the aid measure must be an appropriate policy instrument to address the objective of common interest

(56) As explained above, the UK authorities have demonstrated that the 50% funding of the project through a direct grant is an appropriate instrument to improve the condition of the runways at Land's End airport. No other less distortive form of aid would assure the financing of the necessary hardening of the runways.

(57) The Commission concludes that the aid measure at stake is an appropriate policy instrument.

(d) Incentive effect: the aid must change the behaviour of the undertakings concerned in such a way that they engage in additional activity which they would not carry out without the aid or they would carry out in a restricted or different manner or location

(58) The Commission must establish, whether the State aid granted to Lands' End airport has changed the behaviour of the beneficiary in such a way that it engages in activity that contributes to the achievement of a public-interest objective that (i) it would not carry out without the aid, or (ii) it would carry out in a restricted or different manner.

(59) The UK authorities have demonstrated that the IOSSCo could not undertake the investment project without the 50% funding of the project. The counterfactual analysis shows that compared to a situation with 50% funding, in a situation without any aid the investment project will not take place and the airport might definitely cease to operate due to its runway conditions.

(60) At this moment the airport is closed again due to the conditions of the runways and it is not sure if it can re-open soon. There is a capital cost funding gap for the project, as the ex-ante business plan of Land's End airport has shown that there is a difference between the positive and negative cash flows over the lifetime of the investment in net present value terms.

(61) In light of the funding gap of the project at stake, private investors would not commit the level of funding necessary for this infrastructure project, hence the airport's development will not have been pursued in the absence of the aid in question.

(62) The works can only start after submitting an application to the granting authority. For all these reasons the Commission concludes that the aid has an incentive effect.

(e) Proportionality of the aid (aid limited to the minimum): the aid amount must be limited to the minimum needed to induce the additional investment or activity in the area concerned

- (63) State aid to airports, as any other State aid measure, should be proportional in relation to the aimed legitimate objective in order to be cleared as compatible aid¹⁷. The aid is considered to be proportionate, only if the same result could not be reached with less aid. This means that the amount and intensity of the aid must be limited to the minimum needed for the aided activity to take place.
- (64) The eligible cost are the costs relating to the investments in airport infrastructure, including planning costs, ground handling infrastructure (such as baggage belt, etc.) and airport equipment. The Commission notes that the notified aid will finance exclusively investment costs that are eligible under the 2014 Guidelines.
- (65) According to point 101 of the 2014 Aviation guidelines the maximum permissible aid intensity for the airport of Land's End with less than 1 Million passengers per year is 75%. With a notified aid intensity of 50%, the notified measure is below the maximum permissible aid intensity.
- (66) First, it has to be recalled that at this moment the airport is closed again due to the conditions of the runways and it is not sure if it can re-open soon (see paragraph (60) above).
- (67) Second, the UK authorities provided a calculation of the funding gap of the investment project at stake. This calculation consists in identifying the various revenues, investment costs and operating costs expected to arise because of the aided project, as compared with a counterfactual scenario whereby the aided project would not be undertaken. The funding gap of the project corresponds to the difference between costs and revenues expected to arise because of the project, calculated using an appropriate discount rate. In this case, the calculation shows that the aid amount would be lower than the funding gap of the aided project.
- (68) This calculation of the funding gap takes into consideration all revenues and costs related to the aided project, including costs and revenues linked to non-aeronautical investments falling within the airport's economic activities, that is investments other than those relating to airport infrastructures and equipment or facilities. An example of such non-aeronautical economic investment is the car parking, the hangar rent and coffee shop sales.
- (69) Therefore, the fact that the aid amount does not exceed the general funding gap of the projects shows that it is limited to the minimum necessary to make the overall project economically viable.
- (70) Consequently, the aid will enable the beneficiary to realise the investment, is proportional.
- (f) Avoidance of undue negative effects on competition and trade between Member States: the negative effects of the aid must be sufficiently limited, so that the overall balance of the measure is positive;

¹⁷ It is constant case law that the Commission can declare an aid compatible only if it is necessary for achieving a legitimate objective (cf. case 730/79, Philipp Morris, paragraph 17; case C-390/06, Nuova Agricast, paragraph 68; case T-162/06, Kronoply, paragraph 65).

- (71) The investment project will not lead to the duplication of unprofitable airports or create additional unused capacity. Although Land's End airport competes to some extent with Newquay¹⁸ and Exeter¹⁹ airports for air travel services to the Isles of Scilly, the effect on competition and trade is limited. These two airports are not competing significantly against Land's End airport, as they are rather the two main domestic and international gateways for the region for business and leisure travel. The Isles of Scilly service is one of their lower volume routes. Newquay airport itself has previously been recipient of considerable sums of public funding. The difference between Land's End airport and the two other airports is apparent when considering the transport needs of residents compared to those of tourists and visitors to the islands. According to the notification, on average 55,7% of passengers at Land's End are residents of the Isles of Scilly and 85,5% of trips by residents take place from St. Mary's airport to Land's End airport. Land's End airport, unlike the two other airports, only serves the Isles of Scilly and no other destinations. Moreover, Land's End airport is the only airport that meets the needs of the residents of the Isles as most of the locations the Islanders have to reach for their needs are in the city of Penzance close to Land's End airport. The investment at Land's End airport is not primarily intended to create additional capacity but to allow the airport to operate normally year-round and connect the Isles of Scilly to the mainland.
- (72) On the basis of the above, the Commission can therefore conclude that the development of trade is not affected to an extent contrary to the common interest.
- (73) The UK authorities confirm that the airport will be continue to be open to all potential users, and is not dedicated to one specific user. The Commission notes in this respect, that the Council of the Isles of Scilly have for the two past years been seeking another operator to the Isles of Scilly. Of the only three other operators in the UK with appropriate aircrafts none have shown any interest in operating this or any other route to the Isles of Scilly.
- (74) The Commission considers that the public support in financing the enhancement of Land's End airport in accordance with the conditions described previously, is not prejudicial to the common interest and that the criteria set out in point 79 of the 2014 Aviation Guidelines have been satisfied in the present case.

Conclusion

- (75) In view of the above assessment the Commission concludes that the measure is compatible with the internal market on the basis of Article 107 (3) (c) of the TFEU.
- (76) The UK authorities are reminded of the transparency obligations with regard to publication of details of aid granted, as outlined in section 8.2 of the 2014 Aviation guidelines.

¹⁸ The airport at Newquay is 77km away from Land's End airport with a journey time of 1 hours and 20 minutes by car, and much more during summer.

¹⁹ The airport at Exeter is 200km away from Land's End airport with a journey time of 2 hours and 40 minutes by car (and much more during summer) and 4 hours by train.

4 CONCLUSION

The Commission has accordingly decided:

- that the measure to finance the modernisation of infrastructure at St. Mary's airport as notified by the UK authorities does not constitute aid.
- not to raise objections to the aid to finance the modernisation of infrastructure at Land's End airport as notified by the UK authorities on the grounds that it is compatible with the internal market pursuant to Article 107 (3) (c) of the Treaty on the Functioning of the European Union.

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Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President