



EUROPEAN COMMISSION

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**Subject: State aid SA.37342 (2013/NN) – United Kingdom
Regional Stadia Development in Northern Ireland**

Sir,

1. Summary

- (1) The European Commission has assessed the plan of the Northern Ireland Executive Department of Culture, Arts and Leisure (“DCAL”) to facilitate via direct grant the reconstruction of three old sports stadia in Belfast (“the Plan”). It has decided to consider the aid to be compatible with the internal market, pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union (“TFEU”).

2. Procedure

- (2) By letter dated 5 September 2013, the United Kingdom (“UK”) pre-notified the Plan. Pursuant to Article 108(3) TFEU, the Plan was formally notified on 15 November 2013. Upon request, the UK authorities submitted further information on 24 January 2014.
- (3) The Commission has noted that the aid was granted, in part, before the notification, in relation to one of the stadia, namely ‘Ravenhill Stadium’. The Commission expresses regret that the UK authorities have not notified this Plan in advance of the grant of aid to Ravenhill Stadium, as required by Article 108(3).

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- (4) The Commission has also received two complaints from EU citizens concerning part of the Plan, in relation to one of the stadia, namely ‘Casement Park’. One complaint was received prior to notification, and one further complaint was received following notification. Both complaints, whilst containing a significant number of attached information, focus primarily on the allegation of non-sporting commercial use of ‘Casement Park’ and on non-State aid related matters, including Planning permission and the National administrative process.

3. Description of the measure

3.1 General description of the programme

Objective

- (5) The Northern Ireland Executive plans to reconstruct three old sports stadia in Belfast, in order to provide safe stadia for the three main sports of the region (namely: soccer; gaelic games¹ and rugby) and in addition to regenerate deprived urban communities. Furthermore, the Plan will encourage social cohesion in communities divided by religion to come together through sport, and will contribute to the Peace Process which is part of recent increases in social stability in the region.
- (6) The UK authorities draw the attention of the Commission to the sectarian division in sporting participation and spectator support in Northern Ireland², which has required the provision of three separate stadia, located in appropriate community areas, via this Plan. They note, however, that the provision of these stadia, the conditionality of the aid to be granted and the benefits to be derived thereof, will contribute to drawing the communities together through sport, over time.
- (7) The aims of the Plan are summarised as:
- (a) The three stadia projects are designed as part of an overall programme to promote urban regeneration, neighbourhood renewal, social cohesion, inclusion and equality in Belfast, particularly in the light of the recent peace process, and to underpin and support the peace dividend. Together, the three sports involved in the projects cut across political, social and religious divides and represent the principal sports which are played and supported in Northern Ireland. In addition, the stadia are located in or adjacent to areas of Belfast that experience the highest level of social deprivation in Northern Ireland.
 - (b) The projects also involve investment in sports development programmes in Northern Ireland in order to raise participation levels in sport and physical recreation generally and to improve the health of the population, and to increase Northern Ireland’s profile in sport through better training and playing facilities. The Plan also aims to maximize attendance at sports facilities by creating shared spaces in which all members of the community may integrate.

¹ Gaelic games is an indigenous group of sports of Ireland and Northern Ireland. It contains three main codes which are played on a grass pitch: gaelic football (played by men and women); hurling (played by men) and camogie (played by women). It also includes rounders and handball (played indoors on a court not unlike a squash court, this is not the same code as handball played throughout Europe) and further activities associated with Irish culture and heritage.

² ‘Attendance at Live Sports Events by Adults in Northern Ireland 2011/2012’

Any financial surpluses from the facilities will be reinvested by each of the three sports into grassroots and community projects.

- (c) The Plan also involves planning and infrastructure development in order to bring the three stadia in line with health and safety requirements and to improve disabled access to the venues. The funding will make the stadia compliant with national and international technical requirements for sports fixtures. Modern fit-for-purpose disabled facilities will be provided to provide truly inclusive stadia which can be used by everyone regardless of ability or disability.

Granting Authority

- (8) The aid will be granted through the regional budget of the Northern Ireland Executive. The granting authority will be DCAL.

Budget

- (9) The total amount of the aid is to be £129.0 million, the availability of which is strictly limited by time, as it is to be awarded under the remit of the 'Programme For Government 2011-2015'. The authority of this Programme to spend public funds is strictly limited to expenditure incurred prior to April 2015.

Legal Basis

- (10) The legal basis for the aid measure is:
 - (a) Recreation and Youth Service (Northern Ireland) Order 1986
 - (b) Northern Ireland Act 1998
 - (c) Departments (Northern Ireland) Order 1999
 - (d) Programme For Government 2011-2015.

Beneficiaries

- (11) The aid is to be granted to three beneficiaries, one for each stadium. Each aid beneficiary is the superior organisation responsible for the sport within Northern Ireland (termed a "Governing Body" of sport). Whilst each beneficiary has a different legal status noted below, none of the beneficiaries have the legal capacity to distribute profits to members. All profits are required to be reinvested in the development of their sport.
 - (a) Windsor Park (soccer) – the aid beneficiary is the **Irish Football Association Limited ("IFA")**. It is a private company limited by guarantee, with no share capital.

- IFA controls the stadium through a 51 year lease to the IFA Stadium Development Company Limited³;
 - The operator is to be IFA Stadium Development Company Limited, a wholly owned subsidiary of the IFA;
 - The users are to be a mixture of amateur and voluntary community users, part-time professional football clubs (including Linfield Football Club “LFC”), schools, the local Council, corporate use by the IFA and others, small numbers of commercial services.
- (b) Casement Park (gaelic games) – the aid beneficiary is the **Ulster Council Gaelic Athletic Association (“UCGAA”)**. It is an unincorporated association with its members being representatives elected by the GAA clubs in Ulster.
- The stadium is owned by the Trustees of Casement Park;
 - It is to be operated by the UCGAA;
 - The users are to be a mixture of amateur and voluntary community users, schools, small numbers of commercial services.
- (c) Ravenhill Stadium (rugby) – the aid beneficiary is the **Ulster Branch Irish Rugby Football Union (“UBIRFU”)**. It is also an unincorporated association with its members being the affiliated rugby clubs in Ulster.
- The stadium is owned by the IRFU;
 - It is to be operated by the UBIRFU;
 - The users are to be the ‘Ulster Rugby’ professional team, non-professional rugby clubs, schools, amateur and voluntary community users, corporate use by UBIRFU, small numbers of commercial services.

Form of the aid, budget, intensity and eligible costs

- (12) The aid will be in the form of a direct grant, towards the capital cost of each stadium, to each of the aid beneficiaries noted at (11). The size of each grant and its intensity is noted in the table below:

³ The freehold of the Windsor Park site is owned by Linfield Football Club Ltd (“LFC”). A pre-existing lease from LFC to the IFA prevents other users accessing the stadium, and which further requires payment to be made to LFC regardless of where the matches are held, with the result that LFC are entitled to a profit-share even in respect of IFA international matches that are not held at the Windsor Park stadium. As a condition of funding under the Plan, LFC will grant a new 51 year lease over the whole site to a wholly owned subsidiary of the IFA, the IFA Stadium Development Company Ltd (the “SDC”), on revised commercial terms. The rent payable to LFC under the new lease will be reduced and they will be permitted access to the stadium on revised, commercially comparable grounds, furthermore, use of the stadium will be opened up to other clubs.

	IFA Windsor Park	UBIRFU Ravenhill Stadium	UCGAA Casement Park	TOTAL
Capital Cost	£35.0m	£16.5	£77.5	£129.0m
Contribution from Governing Body	£4.0m	£nil	£15.0m	£19.0m
Grant aid	£31.0m	£16.5m	£62.5m	£110.0m
Total cost	£35.0m	£16.5m	£77.5m	£129.0m
Aid intensity	88%	100%	81%	85%

- (13) The aid is restricted by DCAL and may only be used by each beneficiary to contribute to the design and construction of each stadium project. The amount of aid to be granted to each beneficiary has been independently assessed by robust analysis of economic appraisal as the minimum necessary aid to deliver the objectives of the Plan. The size and scope of each project (which is discussed in more individual detail below) is the minimum necessary to deliver the public benefit of each project.
- (14) The Outline Business Case (“OBC”)⁴ carried out in 2010, analysed a range of options for each stadium, including (but not limited to): location; scale; scope; funding models; displacement; risk and timing. This analysis has made a recommendation for the preferred option for each stadium, which has been taken forward by DCAL and represents the Plan. The UK authorities have concluded that the Plan represents the minimum aid required, and that it also represents the most cost-effective means of delivering the strategic need for regional sports stadium provision within Northern Ireland.
- (15) The UK authorities have assessed that the total expenditure for each project given at (12) is the approved eligible expenditure for each stadium, with the aid intensities as described within this table. They have excluded from the eligible expenditure, prior to arriving at these figures for the Plan, such expenditure as does not meet the aims

⁴ Confidential Outline Business Case to examine the options proposed by the three sports Governing Bodies in relation to regional stadia development in Northern Ireland. This is an independent economic appraisal carried out by FGS McClure Watters business consultancy against strict criteria and critically analysed by Northern Ireland’s governmental economists.

of the Plan and cannot be supported from public resources. A robust project management process is in place, in which DCAL closely examines all decisions of the beneficiaries to ensure that the Plan is delivered strictly within the terms of this notification. A financial analysis of the viability of each stadium is included below.

Strategic Need

- (16) The UK authorities argue that this scale of public funding is the minimum intervention required to achieve the aims of the programme. In the notification they argue that:
- (a) it addresses a market failure as no private investors will meet the scale of funding required. They cite the failure of a previous multi-sports stadium project at Maze / Long Kesh (“MLK”), outside Belfast, in 2009 and the failure of the governing bodies to attract significant non-public funds to their proposals. This project was not able to progress further than Outline Business Case, as it could not be demonstrated to be financially viable;
 - (b) there was historical systemic under-funding of sports infrastructure in the past, as a result of Northern Ireland’s ‘Troubles’, leaving a legacy of outdated and unsafe infrastructure;
 - (c) there is a need for sport to promote social cohesion within a divided society. They state that the three sports stadia, together, cut across political, social and religious divides and are located in or adjacent to areas experiencing the highest levels of social deprivation in Northern Ireland;
 - (d) consideration is required regarding the amateur and voluntary nature of sporting culture in Northern Ireland, in which only small numbers of athletes are professional, and in which the capacity to mobilise large-scale projects such as these without public funding is lacking.
- (17) The Commission has noted these arguments, and the need for sports stadia infrastructure investment in Northern Ireland.

Duration

- (18) The Plan has three phases of duration:
- (a) *The development phase.* This phase has run from 2012 – 2014 and included preliminary feasibility and viability tests for the delivery of each stadium, including design.
 - (b) *The construction phase.* This phase will run from 2012 – 2016 (this includes the construction period of Ravenhill Stadium which commenced prior to notification).
 - (c) *The monitoring phase.* This will run from 2015 – 2040 (a period of 25 years). During this phase the aid beneficiaries will be bound contractually to deliver and report the project benefits to DCAL. They can be penalised, including clawback of the aid for failure to comply with the conditions which DCAL has attached to the aid.

3.2 Description of each stadium project

3.2.1 Windsor Park – soccer

- (19) National Court proceedings were instigated by Crusaders Football Club in the High Court of Northern Ireland in relation to this project in 2013. These proceedings were dismissed by the Court on 14 August 2013, in advance of the notification of the project as part of the Plan. They have not, therefore, impacted on the Commission's ability to consider this project as part of the notified Plan.
- (20) Refurbishment works are proposed for the existing dilapidated Windsor Park stadium to increase its safe capacity from 13,500 to 18,000 spectators. The total works are anticipated to cost in the region of £35 million.
- (21) A maximum grant of £31 million from public funds will be contributed to the works by DCAL, with the private funding contribution being made of a minimum of £4 million from the IFA, through a combination of their own private funds and commercial loans which the IFA have taken out to co-fund the project.
- (22) UEFA contributed approximately £300,000 for urgent remedial works in advance of the 2012 World Cup Qualifying campaign (these works are now complete, were for urgent but temporary safety measures and are not part of the notified Plan), however representatives from both UEFA and FIFA have stated that these organisations are not in a position to contribute capital funding to a major redevelopment of Windsor Park. The OBC further notes that, without public assistance this project would not happen at all.⁵
- (23) Windsor Park is the soccer stadium which has been used for Northern Ireland's International soccer matches for many years. It is in a Unionist area of Belfast with 71% of the population Protestant, and is in the top 15% of deprived areas in Northern Ireland.
- (24) The OBC notes the current failure of Windsor Park to conform to safety and access criteria, including:⁶
 - (a) The Safety at Sports Grounds (Northern Ireland) Order 2006 (Red Guide)
 - (b) The Disability Discrimination (Northern Ireland) Order 2006
 - (c) Requirements of Department of the Environment Planning Service and Belfast City Council Building Control
 - (d) UEFA Stadium Infrastructure Regulations (Edition 2006)
 - (e) FIFA Technical Recommendations and Requirements.
- (25) This has resulted in restrictions in the numbers and access of spectators to Northern Ireland soccer matches and has the potential, if left uncorrected, to require Northern Ireland's representative soccer matches to be played outside Northern Ireland.

⁵ OBC – pages 42 and 43

⁶ OBC – page 21

- (26) The works proposed have been assessed as necessary to bring the stadium up to a safe capacity to meet the needs of the local population, without over-provision⁷. The works include (but are not limited to): activity to make safe roofing areas; access and egress in emergencies; fire provision; crowd control measures and the addition of extra seating and community multi-sports provision.
- (27) The breakdown of the works (which comprises the total of eligible costs, including DCAL and IFA funding) is given in the table below: [...] ⁸.
- (28) The works include the provision of multi-use community facilities, to benefit the local residents, as well as creating a safe stadium to be the home ground of Northern Ireland's representative soccer team. Analysis has been undertaken to ensure that the works do not have the potential for displacement of other commercial facilities nearby. ⁹
- (29) The works have been the subject of a public procurement process carried out according to the UK Public Contracts Regulations 2006. The process was transparent, non-discriminatory and open to all interested EU operators. A contract notice was published in the Official Journal of the European Union ("OJEU") on 10 August 2012¹⁰. The IFA have selected their preferred bidder, however the obligation to stand-still remains in place pending this decision.
- (30) The IFA has identified a range of project benefits which will be delivered both during the construction phase, and the monitoring phase. An extract from these benefits is given below, however a more detailed benefits realisation plan is in place:
- (a) measured increases in participation in soccer from women, school children, people with a disability;
 - (b) increases in coaching qualifications;
 - (c) environmental and community benefits, including improved social cohesion in the areas adjacent to the stadium.
- (31) DCAL has placed a series of conditions on the IFA, as a result of this Plan, which restrict the use of the stadium for non-sporting (i.e. commercial) activities to those which are operated on a full market rate¹¹ requiring a transparent, non-discriminatory and open method for bidding for such use of the stadium. DCAL has a right to veto activities of the IFA in relation to the stadium which are not in compliance with the purpose of the Plan, and retains a right to clawback its funds in the event that the IFA does so offend. DCAL shall use these rights should the circumstances arise, in accordance with its Funding Agreement with the beneficiary. In addition, the IFA has no planned economic use of the stadium for purposes other than soccer and community / educational use.

⁷ The Miller Partnership report, March 2008, OBC Appendix 7.1

⁸ The confidential data are indicated in the text of the Decision with [...].

⁹ OBC – page 41

¹⁰ A total of 29 potential applicants requested and were issued with the pre-qualification documentation. On 17 September 2012, 6 completed questionnaires were returned by Economic Operators wishing to be considered for inclusion on the select list.

¹¹ Working draft DCAL / IFA Funding Agreement dated September 2013 clause 5.49

- (32) The post-project usage of the stadium is as follows:
- (a) The IFA representative¹² sides (senior; ladies; underage). The men's senior side includes professional soccer players. The ladies and underage teams are amateur.
 - (b) Linfield Football Club (a semi-professional football club). This club is the landowner, and will have a part-time lease permitting them use of the stadium for a restricted number of days per year.
 - (c) Other football clubs. Finals matches of the various leagues within Northern Ireland may be played at the stadium. In addition, the stadium may be booked as a venue by any member club, subject to market rates.
 - (d) Schools – both for high performance school use, and for children new to sport.
 - (e) Community sport, health and reconciliation programmes. In part these will be operated by the IFA, and many in conjunction with Belfast City Council.
 - (f) Programmes for people with a disability.
 - (g) Outreach programmes for those communities previously excluded from soccer.
 - (h) Tackling poverty programmes.
 - (i) Educational activities including training young unemployed people.
 - (j) Usage by Belfast City Council. It is planned to incorporate a community leisure provision within the redeveloped stadium. This would be used by all local residents and be multisport in purpose.
 - (k) Corporate. The IFA plans to relocate its headquarters to within the stadium site, and will occupy office provision there. In addition, a replacement of existing offices and shop for Linfield Football Club will be located within the site.
 - (l) Commercial. The IFA plans to seek commercial providers for services such as catering and bar provision, these will be sought through an open, transparent and non-discriminatory market tender.
- (33) The UK has provided evidence that the majority of the stadium users will be non-professional (such as: schoolchildren; community groups; amateur sports people and volunteers), however it is noted that some of the planned use will come from professional sports people and from commercial usage, whilst this usage is small, it is present.
- (34) The UK has further noted that the usage of the stadium post-project will be more open to non-professional users and the local community than it is at present, due to the revised lease which is to be granted to the IFA as a result of the Plan.

¹² Since 1911 Northern Ireland has been affiliated to FIFA. Uniquely, the four so-called 'home nations' of England, Scotland, Wales and Northern Ireland have the right to play matches within FIFA as 'nations', although each is a constituent part of the UK.

- (35) The post-project operator of the stadium will be IFA Stadium Development Company Ltd, a wholly-owned subsidiary company to the IFA which also does not distribute any profit to members or shareholders. It is likewise bound by the terms of the conditions which DCAL has placed on the aid to be granted.
- (36) [...]
- (37) It can be seen from this, that a modest surplus of an average of [...] per annum is forecast to be generated from the operating of Windsor Park.
- (38) DCAL has required that all surpluses generated from the operating of the stadium are reinvested in grassroots soccer, for a period of 25 years. DCAL retains the right to inspect financial records to ensure that it is satisfied that this is being done in accordance with the aims of the Plan. In the event that the IFA is found to have breached this, DCAL has a range of penalties available to it, including clawback of its funds.

3.2.2 Casement park – gaelic games

- (39) The UCGAA has sought assistance with the demolition of their existing stadium at Casement Park and to build a new stadium capable of accommodating 38,000 spectators. The proposed rebuilding will increase capacity by 19% from the existing 32,000. A significant amount of the existing capacity relates to unsafe terracing and this will be converted to safe and modern seated accommodation. The cost of this project is expected to be around £77.5 million.
- (40) A maximum grant of £62.5 million from public funds will be contributed to the works by DCAL. The UCGAA will make a contribution of £15 million from private funds, which are being granted to them by the GAA Central Council in Dublin.
- (41) Casement Park is in a Nationalist area of Belfast with 94% of the population being Catholic and the ward is in the top 15% of deprived areas in Northern Ireland, experiencing particular social deprivation in terms of health, employment and crime.
- (42) The OBC notes a range of physical deficiencies with the current stadium, which are incapable of being rectified within the current structure, necessitating the preferred option of demolition and rebuild¹³. These deficiencies include the risk of crush injuries to spectators.
- (43) The physical deficiencies have resulted in the restriction of safe spectator numbers within the stadium, and the requirement for major finals of gaelic games to be played in Ireland, due to the lack of suitable facilities in the UK¹⁴. It should be noted that spectator numbers in Northern Ireland at gaelic games are significantly higher than at soccer and rugby games. The major finals game attracts between 31,000 and 67,000

¹³ OBC – pages 51-52

¹⁴ There are no dedicated gaelic games stadia in England, Scotland and Wales, although the game is played at recreational level in these parts of the UK. The primary home for the playing of gaelic games is the island of Ireland (which includes the Republic of Ireland and Northern Ireland, a region of the UK) however Casement Park is the largest gaelic games stadium in Northern Ireland (and hence the UK) and has been assessed as lacking sufficient capacity to meet the demand, therefore the largest games which should be played at Casement Park are instead played in other stadia in another Member State, namely Ireland.

spectators, and has been held outside Northern Ireland due to the lack of suitable capacity venues, requiring spectators to travel to Ireland for such games.

- (44) The scale of the project has been assessed by the UK authorities as the minimum which is required to bring the stadium up to a safe capacity to meet the strategic need for a gaelic games stadium in the UK, without over-provision.
- (45) It is noted that, while the scale of the Casement Park project is considerably larger than the other two projects in the Plan, that this is in order to meet the materially larger demand for spectator provision for gaelic games. This level of demand is currently not met by a gaelic games stadium in the UK. It is further noted that, whilst the scale of aid to be granted to the Casement Park project is larger than the other two projects in the plan, the intensity of the aid is the lowest of the three projects in the Plan.
- (46) The breakdown of the works (which comprises the total of eligible costs, including DCAL and UCGAA funding) is given in the table below: [...].
- (47) The works include the provision of extensive new community multi-use facilities, for the benefit of local residents, as well as the provision of a dedicated stadium for the playing of indigenous sport.
- (48) The works have been the subject of a public procurement process carried out according to the UK Public Contracts Regulations 2006. The process was transparent, non-discriminatory and open to all interested EU operators. A contract notice was published in the OJEU on 15 January 2013¹⁵. The UCGAA have selected their preferred bidder, however the obligation to stand-still remains in place pending this decision.
- (49) The UCGAA has identified a range of project benefits which will be delivered both during the construction phase, and the monitoring phase. An extract from these benefits is given below, however a more extensive benefits realisation plan is in place:
 - (a) measured increases in participation in gaelic games from women, school children, people with a disability, ethnic minorities;
 - (b) increases in coaching qualifications;
 - (c) environmental and community benefits, including improved social cohesion in the areas adjacent to the stadium.
- (50) DCAL has placed a series of conditions on the UCGAA, as a result of this Plan, which restrict the use of the stadium for non-sporting (i.e. commercial) activities to those which are operated on a full market rate (please also see para (31)). Their analysis of the UCGAA's preliminary business plan assumptions on the potential for future demand for non-sporting activities (such as pop concerts) concludes that it is ambitious, and unlikely to be met. It has further noted the provision of additional, more suitable, pop concert facilities near to Casement Park in recent years, and it will

¹⁵ A total of 6 pre-qualification questionnaires were returned by Economic Operators wishing to be considered for inclusion on the select list.

ensure that market forces dictate the location of any future non-commercial activities at the site, requiring a transparent, non-discriminatory and open method for bidding for such use of the stadium.

- (51) The post-project usage at the stadium will be as follows:
- (a) Amateur gaelic games of all levels. It should be noted that gaelic games is exclusively an amateur sport, with players playing for teams based on their place of birth. No professionalism is present in the playing of the sport at any level.
 - (b) Schools – both for high performance school use, and for children new to sport.
 - (c) Community sport, health and reconciliation programmes.
 - (d) Creative learning programmes and in particular targeting young people who are excluded or at risk.
 - (e) Outreach programmes for communities previously excluded from gaelic games.
 - (f) Programmes for people with disabilities to encourage participation in sport.
 - (g) Tackling poverty programmes.
 - (h) Community hub with over 2,000 m² of space for education, skilling and learning programmes and opportunities for those suffering from disadvantage and social exclusion.
 - (i) Commercial. The UCGAA plans to seek commercial providers for services such as catering and bar provision, these will be sought through an open, transparent and non-discriminatory market tender.
- (52) The UK has provided evidence that the majority of the stadium users will be non-professional (such as: schoolchildren; community groups; amateur sports people and volunteers), however it is noted that some of the planned use will come from commercial usage, whilst this usage is small at this project, it is present.
- (53) The financial operation of Casement Park, post project, has been analysed by DCAL in the 'Regional Stadia Development Business Plan January 2012'¹⁶, and the first five years of operating income and expenditure are noted below (in £000's): [...].
- (54) Payments to Croke Park and UCGAA are noted in the above table. These relate to contractual obligations on all GAA facilities to remit gate receipts for matches according to set formulae depending on which match is held, and in which competitive structure. The amounts remitted to UCGAA are in the main further dispersed according to the set formulae to individual amateur clubs and County Boards, for use in developing the amateur game. Any residual amounts remaining in the control of UCGAA are required to be reinvested in grassroots sports development

¹⁶ Business Plan – page 67

(again in a completely amateur game) according to the terms of the Funding Agreement with DCAL.

- (55) It can be seen from this, that a surplus of an average of [...] per annum is forecast to be generated from the operating of Casement Park.
- (56) DCAL has required, as a condition of funding, that all surpluses generated from the operating of the stadium are reinvested in grassroots sport and local community benefit, for a period of 25 years. Please also see para (38).

3.2.3 Ravenhill Stadium – rugby

- (57) In 2009, UBIRFU opened a new stand at the Ravenhill Stadium at a cost of £5 million which was funded predominantly from private funding provided by the Irish Rugby Football Union (“IRFU”). They now intend to bring the remainder of the stadium up to a similar high standard by renovating the remaining three stands at a maximum cost of around £16.5 million. Within this cost the ambition is to maximise the number of spectators that can be accommodated, involving an increase in capacity from 13,500 to a target level of 18,000.
- (58) In this instance, DCAL proposes to fund 100% of the cost of this phase, taking into account the previous investment by UBIRFU in the stadium. Independent analysis of historical financial performance affirmed that UBIRFU was unable to provide further partnership funding to the development at Ravenhill, evidenced in the reduction in financial reserves and the presence of an existing loan¹⁷. Construction on Ravenhill, funded by aid, commenced in November 2012, in advance of notification to the Commission.
- (59) It is to be regretted that the UK authorities did not notify this aid until after the aid had been granted and the construction had been started.
- (60) Ravenhill Stadium, located in South East Belfast is the headquarters of UBIRFU and the home of the amateur game of rugby football. Ravenhill as a whole does not experience the levels of deprivation seen in the communities adjacent to the Windsor Park and Casement Park stadia. However, pockets of deprivation are seen in relation to: the living environment; health and disability; and crime and disorder. In terms of multiple deprivation, Ravenhill is adjacent to wards (Woodstock and Cregagh) which are in the most deprived quartile in Northern Ireland. The Ulster Rugby Team is based at the Newforge Country Club training centre, some 10 miles from Ravenhill.
- (61) The OBC notes a number of physical deficiencies within three stands of the current stadium, including poor access and egress in case of emergency for players and spectators, and risk of crush injuries. The stadium does not meet current legislative safety standards.
- (62) The scale of the project has been assessed by the UK authorities as the minimum which is required to bring the stadium up to a safe capacity to meet the strategic need for rugby, without over-provision.

¹⁷ Business Plan page 94

- (63) The breakdown of the works (which comprises the total of eligible costs, including DCAL funding) is given in the table below: [...].
- (64) The works include the provision of extensive community multi-use facilities, for the benefit of local residents and an educational facility, as well as the refurbishment of three stands within the existing stadium.
- (65) The works have been the subject of a public procurement process carried out according to the UK Public Contracts Regulations 2006. The process was transparent, non-discriminatory and open to all interested EU operators. A contract notice was published in the OJEU on 16 March 2012¹⁸. UBIRFU appointed the successful economic operator, Gilbert Ash NI Ltd, on 6 November 2012.
- (66) The UBIRFU has identified a range of project benefits which will be delivered both during the construction phase, and the monitoring phase. An extract from these benefits is given below, however a more extensive benefits realisation plan is in place:
- (a) measured increases in participation in rugby from women, school children, people with a disability, ethnic minorities;
 - (b) increases in coaching qualifications;
 - (c) environmental and community benefits, including improved social cohesion.
- (67) DCAL has placed a series of conditions on UBIRFU as a result of this Plan, which restricts the use of the stadium and requires the delivery of a significant number of social benefits in the coming 25 years. Please also see paras (31), (38) and (56).
- (68) The post-project usage of the stadium is to be as follows:
- (a) The 'Ulster Rugby' professional rugby team. Again, within Northern Ireland this is the only professional team, with an estimate of 30 players who are paid for playing sport, against 27,000 players of rugby in Northern Ireland.
 - (b) Other non-professional rugby clubs. The stadium is used for many matches by other clubs throughout the year, including the finals of a number of leagues.
 - (c) Schools – both for high performance school use, and for children new to sport. In particular, UBIRFU have set themselves a target of every school child in Northern Ireland visiting the stadium twice during their school career.
 - (d) Community sport, health and reconciliation programmes.
 - (e) Outreach programmes for those communities previously excluded from rugby.
 - (f) Tackling poverty programmes.

¹⁸ A total of 39 potential applicants requested and were issued with the pre-qualification documentation. On 26 April 2012, 11 completed questionnaires were returned by Economic Operators wishing to be considered for inclusion on the select list.

- (g) Education and heritage centre.
 - (h) Use by charities and local community groups.
 - (i) Headquarters of UBIRFU (this is already present at the stadium).
 - (j) Commercial. The UBIRFU plans to seek commercial providers for services such as catering and bar provision, these will be sought through open, transparent and non-discriminatory market tenders.
- (69) The UK has provided evidence that the majority of the stadium users will be non-professional (such as: schoolchildren; community groups; amateur sports people and volunteers), however it is noted that some of the planned use will come from professional sports people and from commercial usage, whilst this usage is small, it is present.
- (70) The financial operation of Ravenhill Stadium, post project, has been analysed by DCAL in the 'Regional Stadia Development Business Plan January 2012'¹⁹, and the first five years of operating income and expenditure are noted below (in £000's): [...].
- (71) It can be seen from this, that surplus of an average of [...] per annum is forecast to be generated from the operation of Ravenhill Stadium.
- (72) DCAL has required, as a condition of funding, that all surpluses generated from the operating of the stadium are reinvested in grassroots sport, education and local community benefit, for a period of 25 years. Please also see paras (38) and (56).

3.3 Summary

- (73) The UK plans to aid via direct grant to the three Governing Bodies of soccer, gaelic games and rugby in Northern Ireland up to £129 million from public funds to reconstruct three old sports stadia in Belfast. The aid will be granted to the three Governing Bodies of the sports who will use this aid to improve the stadia infrastructure in Belfast, aid community regeneration in deprived communities and provide the conditions whereby sectarianism and divided experienced in sport are reduced.

4. Assessment

4.1. Existence of State aid

- (74) The question arises whether the Plan could constitute State aid within the meaning of Article 107(1) TFEU, by supporting through State resources an economic activity which derives therefrom an advantage which could affect competition and trade between Member States.
- (75) The funding of the Plan may constitute aid if it leads to a selective advantage for specific economic activities. In this context, the funding of the necessary infrastructure, which will be used in part for commercial activities, could constitute

¹⁹ Business plan – page 97

aid, according to the Leipzig/Halle airport judgment of the Court of Justice²⁰, if all the requirements of 107(1) are fulfilled. Following the Court's assessment, the economic character of the later use of the infrastructure would determine the nature of the construction. Accordingly, the economic activity of operating the infrastructure would benefit from aid.

- (76) In order to be classified as State aid, the Plan must fulfil the following cumulative conditions: 1) it must be granted through State resources; 2) it has to confer a selective economic advantage to undertakings; 3) this advantage must distort or threaten to distort competition; and 4) the measure must affect intra-Community trade.

State resources

- (77) It is common case that the Plan involves the use of State resources. It will be granted through the regional budget of the Northern Ireland Executive and is imputable to the State.

A selective economic advantage to undertakings

- (78) The term “undertaking” includes “*every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed*”.²¹
- (79) Therefore the grant recipients may be categorised as “undertakings” for those economic activities which they carry out. It is recognised that the majority of use of each stadium will be by non-professional users (such as: schoolchildren; community groups; amateur sports people and volunteers)²². It cannot however be denied that professional and / or commercial use will take place to some extent within each stadium, which will include the selling of tickets to view events. So the exploitation of the stadia constitutes an economic activity.
- (80) The operators of the infrastructures will pay a limited part of the costs of reconstruction of the stadiums and the public authorities will pay the remaining part of these costs, which constitutes an advantage for the operators.
- (81) The stadia (or parts thereof) will be rented from time to time by undertakings that would use the stadia for commercial use. These might include part-rental of facilities such as meeting rooms, or provision of catering / bar services. Such usage will be subject to market rates. It is possible, but assessed by the UK authorities as unlikely, that from time to time the stadia may be made available for commercial use for pop concerts, again, the UK authorities have conditioned the grant of aid that such usage must be subject to full market rates requiring a transparent, non-discriminatory and open method for bidding for such use of the stadium.

²⁰ Judgment of 19 December 2012 in Case C-288/11, *Mitteldeutsche Flughafen AG and Flughafen Leipzig-Halle GmbH v Commission*

²¹ Case 41/90 *Klaus Höffner and Fritz Elser v Macrotron GmbH* [1991] ECR I-1979, para 21

²² Non-professional users do not qualify as undertakings within the meaning of Article 107 TFEU as confirmed in European Commission decisions SA.35735 (2012/N), Germany, Multifunktionsarena der Stadt Erfurt and SA.35440 (2012/N) Germany, Multifunktionsarena der Stadt Jena

- (82) The Plan only targets three stadia, operated by three Governing Bodies of sport in Northern Ireland, and therefore a selective economic advantage is granted as not all economic activities are covered by the plan. Furthermore not all Governing Bodies of sport, nor all stadia operators are captured by the Plan.

(Potential) distortion of competition

- (83) The Commission notes the potential for the Plan to alter existing market conditions at the level of operation and use of each stadium. The stadia will allow the Governing Bodies and users to benefit from facilities that would not be available on market terms. The UK authorities have noted that the need for aid to these stadia arises from market failure in the sporting infrastructure market in Northern Ireland and will result in a material improvement that the market cannot deliver.
- (84) Whilst it is acknowledged that many of the users of the stadia are non-professional, at least some of the users are professional and / or commercial and in competition with other undertakings, and therefore the potential for distortion of competition cannot be excluded from the Plan.

Effect on trade between Member States

- (85) The stadia are primarily intended for regional use within Northern Ireland, as part of the UK. They will be used by school teams; women's teams; regional matches; local community use and educational use. The UK authorities have provided an extensive list indicating the types of usage which the stadia will be put to, post project, and it can be seen that the majority of users will come from within Northern Ireland.
- (86) However, given that each stadium will also be used at the highest level for matches which will attract either competitive teams or supporters from other Member States, and the relative proximity (the border of Ireland is 83km from Belfast) of another Member State, there is the potential for an effect, however small, on trade between Member States.
- (87) The market for organising sport and other types of public events is open to competition between venue providers and event organisers, some of which operate in several Member States or belong to international groups. Therefore, the measure at issue has at least a potential effect on trade and competition in the internal market.

Conclusion on the existence of State aid

- (88) On the basis of paragraphs (77) to (87), the Commission therefore considers the Plan to constitute State aid in the sense of Article 107(1) TFEU, as the four cumulative conditions have been met.

4.2. Compatibility

- (89) The public financing of the reconstruction of the three stadia with the aim to offer them, in part, for commercial use may be considered to be compatible with the internal market pursuant to Article 107(3)(c) TFEU if it pursues a policy objective of common interest, is necessary and proportionate and does not cause undue distortion of competition²³.
- (90) As all three stadia present the same characteristics for a compatibility assessment, the assessment below considers all three stadia together.

Policy objective of common interest

- (91) With regard to the achievement of a policy objective of common interest, the construction of venues for sport and other public events and supporting different types of activities which benefit the general public can be considered a State responsibility towards the general public²⁴. The Amsterdam Declaration on Sport and Article 165 TFEU both acknowledge the social significance of sport: *"The Union shall contribute to the promotion of European sporting issues..."*.
- (92) In the instant case of sport in Northern Ireland, a society with well-documented and indeed on-going, social division on the lines of religion, sport can act as a device for bringing divided communities together. DCAL has placed particular emphasis on the post-project usage of these three stadia by the Governing Bodies to operate programmes and activities at these stadia for a period of 25 years to ensure that this aid contributes towards the reduction of social division through sport.
- (93) The stadia will be accessible to the wider communities, including in an educational context. The reconstruction of these stadia must therefore be regarded as satisfying policy objectives of public interest.

Necessity

- (94) The aid is necessary and well targeted as it addresses the specific problem of under-investment in sports infrastructure. The UK authorities have demonstrated that such infrastructure cannot be provided by market forces alone. The three stadia have not attracted sufficient private funding to deliver the reconstruction without significant public intervention.
- (95) The usage obligations which DCAL have placed on the Governing Bodies for 25 years ensure that many types of users will benefit from the facilities, including significantly, the local communities, who experience both social division and a range of deprivation factors. The need for facilities of this type in each of the three communities has been demonstrated through the OBC.
- (96) The financing is also justified by the fact that such an infrastructure otherwise would be absent in the region concerned.

²³ For instance, see European Commission decisions SA.33618 (2012/C), Sweden, Uppsala para 47 and SA.37373, Netherlands, ice arena Thialf

²⁴ Cf. point 67 in decision on case C4/2008, Netherlands, Investment in Ahoy sports palace by Rotterdam

Proportionality

- (97) The use of the public procurement processes, compliant with European requirements in relation to transparency, non-discrimination and openness for the procurement of the construction contracts at each stadium, the UK authorities is an element of proportionality of the aid measure...
- (98) Furthermore, the economic analysis independently carried out in the OBC and in the later Business Plan, has established the minimum public funding which is required to deliver the stated aims of the Plan. Indeed, the OBC analysis has reduced the scale of the initial proposals from each sport to only that which is supported by a detailed analysis of need within the three sports. The eligible costs within each project have been scrutinised and reduced by DCAL (from an initial proposal by the three sports for investment of £146 million down to £129 million) to only that required to deliver the aims of the Plan, and which may be supported by public funds. Therefore, the public funding of the Plan is proportional to achieving a legitimate aim.
- (99) There is some superficial duplication of facilities by the provision of three stadia within relative proximity to each other. This however is not borne out by an understanding of the current social conditions within Northern Ireland and in particular Belfast. Whilst the “Peace Process” has moved this divided community away from the violence of the past, social unrest continues and the communities have not yet reached an understanding whereby sports which are so clearly supported by one community or another, could be played in a single stadium.
- (100) Independent economic analysis has been applied to each of the three beneficiaries, to identify the maximum contribution that can be made by each, without jeopardising their financial viability and consequently their ability to develop their sport within Northern Ireland. This has resulted in a non-public financial contribution to the Plan of £19 million. The surplus of income generated by the reconstruction of the stadia for the operators of these infrastructures will entail a very limited profitability of their own participation to the financing of these reconstructions. The surplus generated is less than 5% a year, which amounts to less than £186,000 of surplus per stadium per year, and where a significant amount of the usage is to be by community and amateur users who will pay a restricted fee for use of the facilities. These surpluses will be required under the Funding Agreement with DCAL to be reinvested in grassroots development of the respective sports. In addition, it has been noted that UBIRFU continues to finance an outstanding loan liability in respect of the improvements to the stadium which were carried out in 2009 and which restrict their ability to finance further borrowing.
- (101) In addition, the renovated stadia will provide increased access to sporting opportunities to women, schoolchildren, people with disabilities and the wider community. The potential for the post-project operation of these stadia to contribute to drawing divided communities together through sport is furthermore acknowledged.
- (102) Post-project, the stadia will have increased multi-functionality, including multi-purpose community and educational facilities, accessible to local communities which experience levels of social deprivation.

Distortion of competition

- (103) There is potential for some limited distortion of competition as noted above at paras (83) to (84). There is no duplication of sports facilities, as the market for such facilities in Northern Ireland at present is limited by social factors that mitigate against shared stadia at present. The catchment area for users of the stadia is likely to remain unchanged by the Plan and is primarily local in nature.
- (104) In terms of cross-border sporting use, it should be noted that the International federation of each sport allocate games and that the operators of the stadia do not have a choice in when they host International fixtures. These conditions are applied evenly to all members of the relevant International federation.
- (105) There is some potential for displacement for non-sporting facilities (such as meeting rooms and community facilities), however the conditions which DCAL has placed upon the grant of aid will require that the majority of the available capacity at each stadium must be used for community and sporting benefits, leaving little capacity available for commercial use.
- (106) Whilst the majority of the sporting use of the stadia will be occupied by non-professional clubs, schools and amateur groups, usage by professional clubs will be charged at a rate consistent with other professional clubs for similar stadia within the island of Ireland, which comprises similar stadia in Northern Ireland and Ireland. It is acknowledged that the comparators for professional sports stadia are similar between these two markets, and that the market for professional sports stadia in England, Wales and Scotland is not comparable.
- (107) Non-sporting and commercial use must be provided at full market rates and requiring a transparent, non-discriminatory and open method for bidding for such use of the stadia, such capacity as is made available to the open transparent and non-discriminatory market will not unduly distort competition. The potential for impact in this market is low.
- (108) The professional activities to be carried out in the stadia, such as they are, are of local character and the aid will not affect trading conditions to an extent contrary to the common interest.
- (109) The assessment in paras 0 to (108) shows that the aid will not affect trading conditions to an extent contrary to the common interest. The assessment shows that the Plan is primarily local in nature with limited potential for effect on trade between Member States. Such interest in the stadia for International use (for instance in International soccer matches) is already present and will not be materially impacted on by the Plan. For non-sporting commercial use, such as pop concerts, the UK authorities have indicated the requirement for transparent, non-discriminatory and open methods for competing for such activities (to the extent that such potential may exist, which is assessed as limited). The complainants have not provided any information that would be capable of altering this conclusion.

Summary

- (110) The Commission therefore considers that the public financing of the Plan, including its spill-over effects on operators and users, pursues acknowledged public policy objectives, is necessary and proportionate and does not adversely affect trading conditions and competition between Member States to an extent contrary to the common interest, according to Article 107(3)(c) TFEU.

5. Conclusion

The Commission has accordingly decided not to raise objections to the aid for the construction and operation of the Plan 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.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent by encrypted e-mail to stateaidgreffe@ec.europa.eu or fax to:

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Yours faithfully,

For the Commission

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Vice-President