



EUROPEAN COMMISSION

Brussels, 5.7.2016
C(2016) 4057 final

PUBLIC VERSION

This document is made available for
information purposes only.

**Subject: State Aid SA.41635 (2015/N) – Germany
Flughafen Heringsdorf**

Sir,

1. PROCEDURE:

- (1) On 21 April 2015, the German authorities notified to the Commission past and future operating aid, as well as public funding for an investment project at the airport of Heringsdorf.
- (2) By letter of 18 June 2015, 1 October 2015 and 14 December 2015, the Commission requested further information, which was provided by the German authorities on 3 August 2015, 30 November 2015 and 6 May 2016.
- (3) Additional information was submitted by Germany on 12 May 2016 and 31 May 2016.

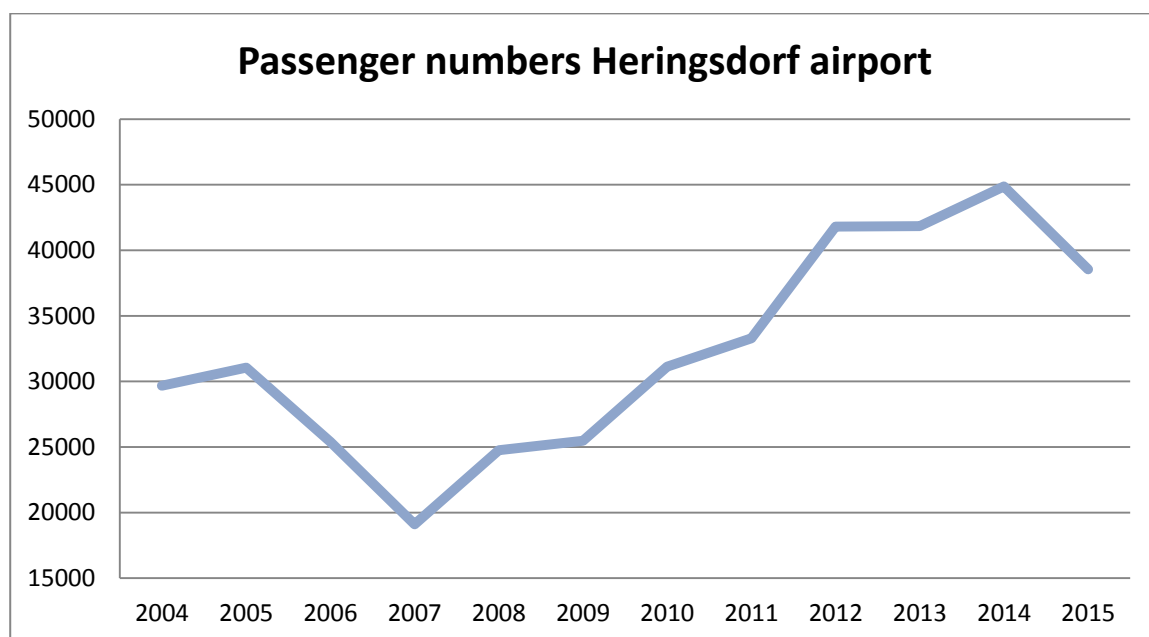
2. DESCRIPTION OF THE MEASURES:

2.1. The beneficiary Heringsdorf Airport

- (4) *Flughafen Heringsdorf GmbH* is a small airport situated on the island of Usedom in north-eastern Germany. Part of the island Usedom belongs to Poland. The German part is connected to the mainland by two bridges, which are lifted on regular intervals to let ships pass.
- (5) The sole shareholder of the airport is the regional public entity Landkreis Vorpommern-Greifswald.

Seiner Exzellenz Herrn Frank-Walter STEINMEIER
Bundesminister des Auswärtigen
Werderscher Markt 1
D - 10117 Berlin

- (6) Several airlines (currently Eurowings, SkyWork Airlines, airBaltic) operate scheduled flights from Heringsdorf. They only operate on weekends and during the summer months. Destinations include several German and Swiss airports, as well as London Heathrow and Palma de Mallorca. The vast majority of passengers are incoming tourists.
- (7) Between 2004 and 2015 passenger numbers have ranged from 25.385 to 44.874 (see graph below). This includes mainly scheduled flights as well as to a lesser degree general aviation, for example taxi and sightseeing flights, training and business flights.



- (8) The nearest airports¹ are:
- (a) Stettin-Golienow in Poland (approximately 86 km, or 95 minutes by car). To reach Stettin-Golienow by road from Usedom it is necessary to take a ferry to cross the Swine on the Polish side, which significantly increases the travel time.
 - (b) Neubrandenburg-Trollenhagen in Germany (approximately 92 km, or 68 minutes by car) which only operates general aviation.
 - (c) Rostock-Laage in Germany (approximately 160 km, or 100 minutes by car).

2.2. Overview of measures

- (9) The German authorities notified a planned investment project, past operating aid and future operating aid.

¹ All distances in road kilometres/travel time are based on the fastest route. Source: maps.google.com, accessed on 13 May 2016.

2.2.1. The planned investment project and its financing

- (10) In 2014 the Aviation Safety Authority (*Luftfahrtaufsichtsbehörde*, "the authority") carried out a safety inspection at the airport of Heringsdorf and identified a number of significant shortcomings. The Authority ordered for these to be rectified, which is why a number of investments have become necessary.
- (11) In addition, certain investments are aimed at allowing larger airplanes, notably Airbus A320-200 and A319-100, to land at Heringsdorf airport. Whereas the runway is already fit for larger models, the taxiways are not. Currently one larger plane can land, but cannot clear the way for other planes by using the taxiways, thus blocking the airport. The German authorities claim that this investment is necessary, as airlines flying to Heringsdorf have announced plans to replace the smaller models they currently use, by larger types.
- (12) In this context the German authorities notified the measures listed in Table 1.

Table 1: Notified investment measures

Measure	Cost (in euro)
Gangway	38 700
Ground Power Unit 115 v/ 400Hz	33 000
Electric trolley extension	12 000
Load capacity increase taxiway A	200 000
Load capacity increase taxiway D	1 000 000
Luggage conveyor belt	100 000
Security fence	445 000
Changes to check-in area	15 500
Shielding terrace	140 000
Fire alarm	25 000
Total	2 009 200

- (13) The above measures are costs relating to the investments in airport infrastructure, including ground handling infrastructure and airport equipment. They are therefore eligible costs as defined in point 97 of the Commission Guidelines on State aid to airports and airlines² ("the Aviation Guidelines").
- (14) The German authorities calculated the capital cost funding gap of the investment project by taking the total expected positive and negative cash-flows over the

² OJ C 99, 4.4.2014, p. 3.

lifetime of the assets into account. In their view the alternative scenario to making these investments would be to close the airport, because it would not comply with the required security standards and would not be able to host larger planes. The total expected positive and negative cash-flows over the lifetime of the asset are therefore incremental to the scenario in which no aid would be granted.

- (15) The German authorities estimate the average economic utilisation period of the assets to be 22 years and 4% to be an appropriate discount rate (as proposed in the Commission's *'Guide to Cost-Benefit Analysis of Investment Projects, Economic Appraisal Tool for Cohesion Policy 2014-2020'*³). On the basis of these assumptions they came to a negative net present value of EUR 88 786, as illustrated in the table below.

Table 2: Capital cost funding gap with a 4% discount rate (euro, 2015)

Positive cash-flow	16 339 644,04
Negative cash-flow (including investment project)	-17 935 329,90
Capital cost funding gap (without investment aid)	-1 595 685,86
Public support	1 506 900,00
Capital cost funding gap (with investment aid)	-88 785,86

- (16) 75% of the total cost (EUR 1 506 900) would be financed by the Landesförderinstitut of Mecklenburg-Vorpommern and the remainder of the total cost would be covered by the airport of Heringsdorf. The airport plans to finance about 2.5% of the total cost through own resources and about 22.5% through loans.
- (17) The German authorities also brought to the Commission's attention that the airport intends to invest in an airfield fire engine to which the public authorities will contribute financially. The German authorities consider that this activity falls within the public policy remit and is, therefore, not part of the notified investment aid.

2.2.2. Past operating aid

- (18) The airport of Heringsdorf received from the public authorities between January 2004 and December 2013 regular payments to cover for operating losses. These are summarised in Table 3.

Table 3: Payments received by the airport of Heringsdorf (in euro)

³ P. 42, Guide to Cost-Benefit Analysis of Investment Projects, Economic Appraisal Tool for Cohesion Policy 2014-2020, December 2014, http://ec.europa.eu/regional_policy/sources/docgener/studies/pdf/cba_guide.pdf

Year	Total amount of public funding	Compensation for non-economic activities	Operating costs not covered by revenues
2004	638 271,95	46 549,42	591 722,53
2005	616 671,95	48 086,80	568 585,15
2006	592 009,89	48 088,82	543 921,07
2007	625 024,85	47 642,65	577 382,20
2008	612 213,91	124 923,27	487 290,64
2009	608 008,03	141 304,69	466 703,34
2010	576 492,07	122 600,31	453 891,76
2011	672 792,07	115 470,31	557 321,76
2012	593 968,53	114 540,92	476 427,61
2013	504 968,53	120 124,03	384 844,50

- (19) The amounts represent operating costs not covered by revenues and compensation for non-economic activities (related to air traffic control and aerial supervision) not covered by revenues. Whilst Landkreis Vorpommern-Greifswald (and its legal predecessor the Landkreis Ostvorpommern) compensated for the operating costs not covered by revenues, the Ministry of Economic Affairs of the Land of Mecklenburg-Vorpommern covered the compensation of the non-economic activities not covered by revenues.

2.2.3. Operating aid 2014 - 2018

- (20) The German authorities also notified the intention of the municipality of Heringsdorf and the Landkreis Vorpommern-Greifswald to grant operating aid to the airport of Heringsdorf for 2014 to 2018.
- (21) The public authorities would cover the airport's operating funding gap during the years 2014 to 2018 up to a maximum of EUR 472 997 annually. This is 80% of EUR 591 245,85, which is the average operating funding gap during the five years preceding the beginning of the transitional period (2009 to 2013), see Table 4.

Table 4: Initial operating funding gap (in euro)

	2009	2010	2011	2012	2013	Average 2009 - 2013
Operating funding	608 008,03	576 492,07	672 792,07	593 968,53	504 968,53	591 245,85

gap						
-----	--	--	--	--	--	--

- (22) The municipality of Heringsdorf would cover 25% of the annual operating funding gap of the airport, up to a maximum of EUR 125 000. The Landkreis Vorpommern-Greifswald would cover the remainder.
- (23) The authorities expected a relatively steady stream of passengers for 2014 to 2018, as is shown in Table 5 below.

Table 5: Expected passenger numbers

Year	2014 (real)	2015 (real)	2016	2017	2018
Passengers	44 874	39 046	40 915	42 345	42 845

- (24) On the basis of these passenger numbers they expect the actual operating funding gap and aid amounts for 2014 to 2018 to be as shown in Table 6 below.

Table 6: Expected operating deficits

Year	2014	2015	2016	2017	2018
Deficit (in euro)	279 447	414 874	347 396	329 152	339 239

- (25) The authorities consider, however, that the future costs and revenue developments are surrounded by a particularly high degree of uncertainty due to the small size of the airport and thus its dependence on only a hand-full of regular flights. Also, hotels sign agreements with airlines serving Heringsdorf airport to guarantee a minimum load, but these agreements are only signed on an annual basis leading to feeble predictability of passenger numbers. Furthermore, carriers flying to Heringsdorf have announced that they intend to switch to larger aircrafts. The speed at which this switch takes place and the speed with which Heringsdorf can adapt its infrastructure will possibly have an important impact on passenger numbers.
- (26) Due to this uncertainty the German authorities notify a maximum aid amount of EUR 472 997, even though they commit to only compensate the actual operating funding gap in the years 2014 to 2018.
- (27) Beyond 2018 the German authorities claim that the intention is to reduce the operating aid to approximately one third of current aid levels. According to the authorities it is not possible for an airport with the business model and passenger numbers of Heringsdorf to operate without any operating aid.

2.3. Commitments by Germany

- (28) With regard to the operating aid granted for 2014 to 2018, which is capped at 80% of the initial funding gap, the German authorities committed that the amount of aid to be paid to the airport of Heringsdorf will cover only the actual annual operating funding gap, taking into account only operating costs as defined in point 25 (22) of the Aviation Guidelines.
- (29) With regard to the future operating and investment aid the German authorities commit to comply with the rules on transparency as provided for in points 162 and 163 of the Aviation Guidelines and amended by the "Transparency Communication"⁴.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid

- (30) 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."*
- (31) The criteria laid down in Article 107(1) TFEU are cumulative. Therefore, for a measure to constitute State aid within the meaning of Article 107(1) TFEU all of the following conditions need to be fulfilled. The financial support must:
- be granted by the State or through State resources,
 - favour certain undertakings or the production of certain goods,
 - distort or threaten to distort competition, and
 - affect trade between Member States.
- (32) In the following sections the Commission will assess whether the measures as described above in chapters 2.2.2, 2.2.3 and 2.2.4 meet these cumulative criteria and thus constitute aid in the meaning of Article 107 (1) TFEU.

3.1.1. Notion of undertaking and economic activity

- (33) According to settled case law, the Commission must first establish whether the airport of Heringsdorf is an undertaking 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

⁴ Communication from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014-2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines, OJ C198/30 of. 27.6.14.

financed⁵. Any activity consisting in offering goods and services on a given market is an economic activity⁶.

Notion of an undertaking

- (34) In the "*Aéroports de Paris*" judgement, the General Court stated that the operation of an airport, including the provision of airport services to airlines and to the various service providers within airports, is an economic activity⁷. This was confirmed by the Court of Justice in its "*Leipzig-Halle airport*" judgment where it found that the operation of an airport for commercial purposes and the construction of airport infrastructure constitute an economic activity⁸. 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) TFEU, and the Treaty rules on State aid therefore apply⁹.
- (35) The Commission notes that the airport infrastructure and equipment are operated by the airport of Heringsdorf, the beneficiary of the notified public funding. The airport charges airlines as well as general aviation fees for the use of the infrastructures, and thus exploits the airport commercially. It follows that the entity owning and operating the airport constitutes an undertaking for the purposes of Article 107 (1) TFEU.

Economic activity

- (36) While the airport of Heringsdorf must be considered to constitute an undertaking for the purposes of Article 107(1) TFEU, it must be recalled that not all the activities of an airport owner and operator are necessarily of an economic nature.¹⁰
- (37) As explained in point 35 of the Aviation Guidelines activities that normally fall under State responsibility in the exercise of its official powers as a public authority are not of an economic nature and do not fall within the scope of the rules on State aid.
- (38) However, as confirmed by point 37 of the Aviation Guidelines, public financing of non-economic activities necessarily linked to the carrying out of an economic activity must not lead to undue discrimination between airlines and airport managers. Indeed, it is established case law that there is an advantage when public authorities relieve undertakings of the costs inherent to their economic activities¹¹. Therefore, if in a given legal system it is normal that airlines or

⁵ Case C-35/96 *Commission v Italy*, ECLI:EU:C:1998:303, para 36; C-41/90 *Höfner and Elser*, ECLI:EU:C:1991:161, para 21; Case C-244/94 *Fédération Française des Sociétés d'Assurances v Ministère de l'Agriculture et de la Pêche*, ECLI:EU:C:1995:392, para 14; Case C-55/96 *Job Centre*, ECLI:EU:C:1997:603, para 21.

⁶ Case 118/85 *Commission v Italy* ECLI:EU:C:1987:283, para 7; Case 35/96 *Commission v Italy* ECLI:EU:C:1998:303, para 36.

⁷ Case T-128/89 *Aéroports de Paris v Commission* [2000] ECR II-3929, confirmed by the Court of Justice in Case C-82/01 P [2002] ECR I-9297.

⁸ Case C-288/11 *Mitteldeutsche Flughafen and Flughafen Leipzig-Halle v Commission*, ECLI:EU:C:2012:821; see also Case C-82/01 *Aéroports de Paris v Commission*, ECLI:EU:C:2002:617, and Case T-196/04 *Ryanair v Commission*, ECLI:EU:T:2008:585.

⁹ Cases C-159/91 and C-160/91, *Poucet v AGV and Pistre v Cancave*, ECLI:EU:C:1993:63.

¹⁰ Case C-364/92 *SAT Fluggesellschaft v Eurocontrol* [1994] ECR I-43.

¹¹ See i.a. Case C-172/03 *Wolfgang Heiser v Finanzamt Innsbruck* [2005] ECR I-01627, paragraph 36, and case-law cited.

airport managers bear the costs of certain services, whereas some airlines or airport managers providing the same services on behalf of the same public authorities do not have to bear those costs, the latter may enjoy an advantage, even if those services are considered in themselves as non-economic.

- (39) Germany notified investments to improve the security and safety of the airport operations (the security fence, changes to the check-in area, shielding terrace and fire alarm). These investments may not be considered economic in and by themselves, but they are inextricably linked to the economic activities of the airport. Any undertaking wishing to operate an airport has to ensure the operational safety of its installations, such as the runway and the aprons¹². This is a normal part of the economic activity of operating an airport¹³. In addition, the German authorities did not demonstrate that these costs are reimbursed in a non-discriminatory manner within a given legal system, be it Germany or the Land of Mecklenburg-Vorpommern. In fact, the available information rather indicates that most German airports have to bear these costs themselves. It cannot be excluded, therefore, that the public funding covering part of these costs may lead to an advantage for the airport of Heringsdorf and the support to those investments therefore constitutes State aid and will be looked at as part of the compatibility assessment.
- (40) On firefighting on the other hand the Commission has observed in the past that the remuneration of costs for the fire brigade is subject to regional responsibilities in Germany and these costs are usually born by the relevant regional authorities¹⁴. The German authorities consider the investment of the airfield fire engine to be part of the firefighting activity. If the public support is limited to the amount necessary to cover the costs, it falls outside the scope of State aid considerations. This investment will, therefore, not be further dealt with in the present decision.
- (41) With regards to operating costs, the German authorities also notified costs related to carrying out non-economic activities, in particular related to air traffic control and aerial supervision. Also here it must be noted that public financing of non-economic activities necessarily linked to the carrying out of an economic activity must not lead to undue discrimination between airport managers (see point 37 of the Aviation Guidelines).
- (42) Again, the German authorities did not demonstrate that these costs were reimbursed in a non-discriminatory manner within a given legal system, be it Germany or the Land of Mecklenburg-Vorpommern. In fact, the available information rather indicates that many German airports have to bear these costs themselves. This is also in line with the Commission's findings in earlier State aid decisions¹⁵. As it cannot be excluded, therefore, that the public funding covering

¹² For an earlier Decision regarding an airport security fence see Recital 197 of Commission Decision (EU) 2015/1071 of 01.10.2014 in State aid case SA.26190 (2012/C) (ex 2011/NN) - Germany - Saarbrücken Airport and airlines using the airport, OJ L 179/1 of 8.7.2015.

¹³ Commission decision of 20 February 2014 in State aid case SA.35847 (2012/N) – Czech Republic – Ostrava Airport, OJ C 153/1 of 8.5.2015, recital 16.

¹⁴ Recital 192 of Commission Decision (EU) 2015/1071 of 01.10.2014 in State aid case SA.26190 (2012/C) (ex 2011/NN) - Germany - Saarbrücken Airport and airlines using the airport, OJ L 179/1 of 8.7.2015.

¹⁵ For example recital 195 – 198 of Commission Decision (EU) 2015/1071 of 01.10.2014 in State aid case SA.26190 (2012/C) (ex 2011/NN) - Germany - Saarbrücken Airport and airlines using the airport, OJ L 179/1 of 8.7.2015; or recital 244 – 248 of Commission Decision (EU) 2015/1469 of

these costs leads to an advantage for the airport of Heringsdorf these costs will be looked at as part of the notified operating aid.

3.1.2. *Use of state resources and imputability to the State*

- (43) The funding for the investment project at the airport will stem from the Landesförderinstitut of Mecklenburg-Vorpommern. The Landesförderinstitut acts as a trustee for the Land of Mecklenburg-Vorpommern and has been tasked to fund infrastructure investments.
- (44) The past operating aid was granted by the Landkreis Vorpommern-Greifswald (and its legal predecessor the Landkreis Ostvorpommern), as well as the Ministry of Economic Affairs of the Land of Mecklenburg-Vorpommern.
- (45) The operating aid granted in 2014 to 2018 is granted by the municipality of Heringsdorf and the Landkreis Vorpommern-Greifswald.
- (46) The funding is thus attributable to the State and involves State resources.

3.1.3. *Economic advantage*

- (47) The above-mentioned public funding reduces the investment costs which the airport of Heringsdorf would normally have to bear in order to adapt the airport to the applicable safety and security standards. The public funding, therefore, confers an economic advantage on the airport of Heringsdorf.
- (48) The compensation of operating losses in the past, as well as the planned compensation for operating losses in the future relieve the airport of Heringsdorf from the burden of covering its own operating losses. Therefore, those contributions also confer an economic advantage to the airport.

3.1.4. *Selectivity*

- (49) 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 public funding in question will be granted to the airport of Heringsdorf only. Hence, the measure is selective within the meaning of Article 107(1) TFEU.

3.1.5. *Distortion of competition and effect on trade*

- (50) 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 law¹⁶, for a measure to distort competition it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.
- (51) Competition takes place between airports in the internal market and the airport of Heringsdorf is to some extent directly competing with other airports in Germany and Poland. Public financing for the modernisation of airport of Heringsdorf, as

23.07.2014 in State aid case SA.30743 (2012/C) (ex N 138/10) — Germany — Financing of infrastructure projects at Leipzig/Halle airport (2), OJ L 232/1 of 4.9.2015.

¹⁶ Case T-214/95 *Het Vlaamse Gewest v Commission* [1998] ECR II-717.

well as the compensation for operating losses will enable that airport to continue operating and will strengthen the airport's position vis-à-vis other airports, e.g. Stettin-Golienow and Rostock-Laage. Hence, a potential effect on competition and trade as a result of the notified measure cannot be excluded.

3.1.6. *Conclusion on the existence of State aid and the lawfulness of the aid*

Planned investment project and its financing

- (52) For the reasons set out above the Commission concludes that the public funding for the planned infrastructure investments at the airport of Heringsdorf, except for the financing of the airfield fire engine, constitutes State aid within the meaning of Article 107(1) TFEU.
- (53) The Commission notes that Germany has respected the standstill obligation laid down in Article 108(3) TFEU with regards to the investment funding and has not granted the aid prior to the Commission's approval.

Past operating aid and planned operating aid

- (54) With regard to the past and the planned operating funding which aims to cover operating losses, the Commission also concludes that the notified measures constitute State aid within the meaning of Article 107(1) TFEU.
- (55) As the past operating aid and part of the planned operating funding have already been put at the disposal of the airport of Heringsdorf, the Commission considers that Germany has not respected the stand-still obligation laid down Article 108(3) of the Treaty¹⁷ in this respect.

3.2. Compatibility of the aid

3.2.1. *Basis for assessing the compatibility of the aid with the Internal Market*

- (56) Article 107(3)(c) TFEU 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.
- (57) With the notified State aid, the German authorities intend to provide financial support for an investment in infrastructure and equipment at the airport of Heringsdorf. They have also compensated for operating losses of the airport in the past and plan to do so in the future.
- (58) The Aviation Guidelines provide for principles to assess, among others, the compatibility of investment aid operating aid to airports with the internal market.
- (59) Point 79 of the Aviation Guidelines stipulates cumulative common principles that a State aid measure has to respect in order to be found compatible with the Internal Market:
 - (a) contribution to a well-defined objective of common interest;

¹⁷ Case T 109/01 *Fleuren Compost v Commission* [2004] ECR II-127.

- (b) need for State intervention;
- (c) appropriateness of the aid measure;
- (d) incentive effect;
- (e) proportionality of the aid (aid limited to the minimum);
- (f) avoidance of undue negative effects on competition and trade between Member States;
- (g) transparency of aid.

3.2.2. *Planned investment aid*

- (60) Investment aid granted to airports will be considered compatible with the internal market pursuant to Article 107(3)(c) TFEU provided that the cumulative conditions mentioned above are fulfilled as set out in points 84 to 108 of the Aviation Guidelines. Transparency criteria in points 162 and 163 of the Aviation Guidelines have been amended by the 'Transparency Communication'. Compatibility with these amended criteria will be assessed below.

Contribution to a well-defined objective of common interest

- (61) Under point 84 of the Guidelines, investment aid to airports will be considered to contribute to the achievement of an objective of common interest if it (a) increases the mobility of Union citizens and the connectivity of the regions by establishing access points for intra-Union flights; or (b) combats air traffic congestion at major Union hub airports; or (c) facilitates regional development.
- (62) According to Germany, the airport of Heringsdorf is central for tourism and economic development on the island of Usedom, which was why the airport's public owners decided to enable the airport to continue its operations and modernise its infrastructure and equipment.
- (63) As described above, the airport of Heringsdorf mainly serves incoming tourists. Tourism directly or indirectly accounts for 85% of the jobs in the region. The airport is essential in the region's overall tourism strategy which aims to tap into the potential of additional high-end tourists from regions that lie further away, such as in particular southern Germany, Nordrhein-Westfalen, Switzerland and Austria. The public authorities have also calculated that maintaining the airport would be less costly for them than the losses they would experience due to reduced turnover and losses in tax revenues resulting from the lower number of tourists coming to the region.
- (64) Hence, the aid contributes to regional development, in line with point 84 (c) of the Aviation Guidelines.
- (65) In line with point 85 of the Aviation Guidelines, the Commission also has to assess whether the primary aim of the investment project is the creation of additional capacity which would contribute to the duplication of unprofitable airports or the creation of additional unused capacity in the same catchment area. Any investment should have satisfactory medium-term prospects for use and should not diminish the medium-term prospects for use of an existing infrastructure in the catchment area. In addition, according to point 86 of the Aviation Guidelines in order to alleviate the Commission's doubts as to the medium-term prospects for use of airport infrastructure at an airport located in the

catchment area of an existing airport where the existing airport is not operating at near full capacity the medium-term prospects for use must be demonstrated based on sound forecasts in an ex ante business plan and must identify the likely effect of the investment on the use of existing infrastructure..

- (66) The Commission notes that the investment programme does not primarily aim at the creation of additional capacity but is designed to satisfy mandatory security and safety requirements as prescribed by the regulator and to allow the airport to maintain its client base, which is switching to different, larger types of airplanes (see also recitals (13) and (14)) of this decision. The business plan submitted by the German authorities foresees stable passenger numbers over the years to come. The condition of positive medium-term prospects for use of the airport infrastructure is therefore met.
- (67) As regards the effect of the State support on the use of existing infrastructure the Commission notes that there are no airports that fall within the same catchment area as the beneficiary. Catchment area is defined in point 25 (11) of the Aviation Guidelines as *'a geographic market boundary that is normally set at around 100 kilometres or around 60 minutes travelling time by car, but, train or high-speed train; however, the catchment area of a given airport may be different and needs to take into account the specificities of each particular airport. The size and shape of the catchment area varies from airport to airport, and depends on various characteristics of the airport, including its business model, location and the destinations it serves.'*
- (68) As was explained in recital (8) of this decision, the airport of Stettin-Golienow, Poland, is the closest airport to the beneficiary airport. The Commission notes that although the shortest road distance between both airports is only 86 kilometres, a traveller would have to use a ferry to cross the Swine, which increases the travel time far beyond one hour. Whilst the airport of Neubrandenburg-Trollenhagen in Germany is also only 92 km and 68 minutes from the airport of Heringsdorf its business model is quite distinct from Heringsdorf's business model. Whilst the beneficiary mainly focuses on attracting incoming tourists by operating scheduled flights the airport of Neubrandenburg-Trollenhagen does not operate scheduled flights, but focuses merely on general aviation. Finally, the airport of Rostock-Laage in Germany is approximately 160 km, or 100 minutes by car from Heringsdorf airport and hence falls outside the catchment area.
- (69) The Commission therefore concludes that the modernisation and operation of the airport infrastructure meets a clearly defined objective of common interest.

Need for State intervention

- (70) Point 87 of the Aviation Guidelines stipulates that State aid should be targeted towards situations where such aid can bring about a material improvement that the market itself cannot deliver.
- (71) In 2013 Landkreis Vorpommern-Greifswald as the sole shareholder of the airport of Heringsdorf decided to seek investors to invest in the airport. It launched an expression-of-interest-procedure to which it only received one response from a Russian investor. The initial conditions offered by the potential investor were not acceptable to the Landkreis Vorpommern-Greifswald and the negotiations were

discontinued following the economic sanctions of the European Union against Russia.

- (72) This shows that the airport was not able to attract private investors and confirms points 88 and 89 of the Aviation Guidelines, which outline that smaller airports, in particular airports with up to 200 000 passengers per annum may have difficulties in ensuring the financing of their investments without public funding.
- (73) The Commission therefore concludes that there is a need for State intervention.

Appropriateness of the aid measure:

- (74) Pursuant to point 90 of the Aviation Guidelines, Member States must demonstrate that the aid measure is an appropriate policy instrument to achieve the intended objective or resolve the problems intended to be addressed by the aid. An aid measure will not be considered compatible with the internal market if other less distortive policy instruments or aid instruments allow the same objective to be reached.
- (75) The German authorities have demonstrated that a grant covering 75% of the total investment costs combined with a loan by the airport covering 22,5% of the total costs and 2,5% of the costs covered by the airport's own capital is an appropriate manner to finance the present investment. The balance sheets and the business plan submitted by Germany show that the airport would not have been able to cover the interest and principal repayments should the loan have covered the total cost of the investment.
- (76) The Commission concludes that the aid measure at stake is an appropriate policy instrument.

Incentive effect

- (77) Point 93 of the Aviation Guidelines requires that works on an individual investment have not have started before an application has been submitted to the granting authority. Point 94 of the Aviation requires that it needs to be verified that the project is not economically attractive in its own right and that the investment would not have been undertaken or would not have been undertaken to the same extent without any State aid.
- (78) The Landesförderinstitut Mecklenburg-Vorpommern has made the granting of the aid conditional on the Commission's approval and the works have not yet started.
- (79) The German authorities have demonstrated that the airport of Heringsdorf could not undertake the investment project without the grant covering part of the project cost. Without the necessary financing to adapt the airport infrastructure to meet security needs and the needs of larger aircrafts, the airport would inevitably face closure.
- (80) The airport's *ex ante* business plan shows a capital cost funding gap over the lifetime of the investment in terms of a difference between the positive and negative cash flows in net present value terms, to the amount of EUR -88 785,86, taking the investment aid of EUR 1 506 900 into account. This shows that the investment is not economically attractive in its own right.

- (81) In conclusion, the aid has an incentive effect on the airport of Heringsdorf, as it would not undertake the investments without the aid in question.

Proportionality of the aid amount (aid limited to the minimum):

- (82) State Aid is deemed to be proportional if its amount is limited to the minimum needed to induce the additional investment or activity in the area concerned. 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 aid¹⁸.
- (83) Point 97 of the Aviation Guidelines stipulates that the maximum permissible amount of State aid must be expressed as a percentage of eligible costs (the maximum aid intensity) and that 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. Point 101 of the Aviation Guidelines specifies that the maximum permissible aid intensity for airports with less than 1 million passengers is 75% of the eligible costs
- (84) As listed in recital (15) above, the aid will be allocated to investments in airport infrastructure, ground handling infrastructure and airport equipment, as well as to investments in non-economic activities. Investment costs related to ground handling services equipment and non-aviation activities are excluded from public support.
- (85) Hence, State aid will exclusively be used to finance eligible investment costs in the sense of the Aviation Guidelines, which amount to EUR 2 009 200 (see recital (15) and (16) above). The Commission notes that the German authorities intend to grant EUR 1 506 900 which is not higher than the maximum aid intensity.
- (86) Point 99 of the Aviation Guidelines stipulates that in cases where no specific alternative project/activity is known that the beneficiary would have undertaken if it had not received the aid, in order to be proportionate, the amount of the aid should not exceed the capital cost funding gap of the investment project. That gap is determined on the basis of an *ex ante* business plan as the net present value of the difference between the positive and negative cash flows (including investment costs) over the lifetime of the investment. For investment aid the business plan should cover the period of the economic utilisation of the asset.
- (87) In the case of the beneficiary no alternative project/activity is known that would have been undertaken without the aid. In the absence of aid the airport would not be able to make the necessary investments and would no longer comply with the safety regulations and ultimately would have to close.
- (88) The business plan on the basis of which the capital cost funding gap was calculated took into account all aeronautical and non-aeronautical revenues, investment costs and operating costs expected to be generated by the investment project over its presumed 22-year lifetime, calculated using an appropriate discount rate of 4% in line with the European Commission's *'Guide to Cost-Benefit Analysis of Investment Projects, Economic Appraisal Tool for Cohesion*

¹⁸ According to constant case law the Commission may declare State 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).

*Policy 2014-2020*¹⁹. As also demonstrated in recital (18) above, the discounted financing gap amounts to EUR 1 595 685,86. The envisaged aid's discounted value at that date, being EUR 1 506 900 million, does not exceed the funding gap.

- (89) As the aid amount is below the capital cost funding gap of the project, and as the aid intensity does not exceed the maximum permissible aid intensity, the investment aid can be deemed proportional.

Avoidance of undue negative effects on competition and trade between Member States

- (90) The negative effects of the aid must be sufficiently limited, so that the overall balance of the measure is positive.
- (91) Point 106 of the Aviation Guidelines specifies that in particular the duplication of unprofitable airports or the creation of additional unused capacity in the catchment area of existing infrastructure might have distortive effects.
- (92) As was described above in recital (71), there are no other airports in the catchment area of Heringsdorf airport. The investment aims at improving the security and safety situation of the airport and at maintaining its client base, which is switching to different, larger types of airplanes. Should the airport not carry out the present investment it would need to close.
- (93) Point 108 of the Guidelines specifies that in order to further limit any distortions, the airport, including any investment for which State aid is granted, must be open to all potential users and must not be dedicated to one specific user.
- (94) The airport currently hosts three airlines. Its aim is to attract as many tourists as possible and it is therefore and will remain, open to all users.
- (95) On the basis of the above, the Commission concludes that the investment aid in question has no undue negative effects on competition and trade between Member States.

Cumulation of aid

- (96) Pursuant to point 159 of the Guidelines, aid authorised under the Aviation Guidelines may not be combined with other State aid, *de minimis* aid or other forms of Union financing, if such a combination results in a higher aid intensity than the one laid down in these guidelines.
- (97) The German authorities have confirmed that the aid granted under the Aviation Guidelines will not be cumulated with any other aid.

Transparency

- (98) Section 8.2 of the Aviation Guidelines as amended by the 'Transparency Communication' specifies transparency requirements which shall ensure that Member States, the Commission, economic operators and the public have easy

¹⁹ P. 42, Guide to Cost-Benefit Analysis of Investment Projects, Economic Appraisal Tool for Cohesion Policy 2014-2020, December 2014, http://ec.europa.eu/regional_policy/sources/docgener/studies/pdf/cba_guide.pdf.

access to all relevant acts and to pertinent information about the aid awarded thereunder. Specific criteria for the publication of relevant information are set out in point 162 of the Guidelines. Point 163 of the Aviation Guidelines requires Member States to ensure that detailed records are kept regarding all measures involving the granting of State aid.

- (99) The Commission notes that Germany will comply with these conditions, as was described in recital (32) above. The aid is therefore transparent in the sense of the Aviation Guidelines.

Conclusion

- (100) In view of the above, the Commission considers that the investment aid to the airport of Heringsdorf is in accordance with the compatibility conditions set out in the Aviation Guidelines.
- (101) Hence, the investment aid measure is compatible with the internal market on the basis of Article 107 (3) (c) TFEU.

3.2.3. Past operating aid

- (102) Point 137 of the Aviation Guidelines foresees that operating aid granted before the beginning of the transitional period (including aid paid before 4 April 2014) may be declared compatible to the full extent of uncovered operating costs provided that the conditions in section 5.1.2 of the Aviation Guidelines are met, with the exception of points 115, 119, 121, 122, 123, 126 to 130, 132, 133 and 134. Compatibility with these criteria will be assessed below.

Contribution to a well-defined objective of common interest

- (103) Point 113 of the Aviation Guidelines stipulates that, in order to give airports time to adjust to new market realities and to avoid any disruptions in the air traffic and connectivity of the regions, operating aid to airports will be considered to contribute to the achievement of an objective of common interest, if it: a) increases the mobility of European Union citizens and connectivity of regions by establishing access points for intra-European Union flights; or b) combats air traffic congestion at major European Union hub airports; or c) facilitates regional development.
- (104) Recitals (65) and (66) above outline how the airport of Heringsdorf facilitates regional development.
- (105) In line with point 114 of the Aviation Guidelines, the Commission has to assess whether the aid would contribute to the duplication of unprofitable airports and what the effect would be on traffic of other airports located in the same catchment area. Recitals (70) and (71) above explain that there is currently no other airport situated within the same catchment area.
- (106) This also holds true for the years 2004 to 2013. It may be worth mentioning that until 30 September 2013 the airport of Neubrandenburg-Trollenberg was used for both military and general aviation purposes after that date it continued to only host general aviation. There was an attempt to turn the airport into an airport for outgoing flights to Mediterranean holiday destinations, but this was not successful. Even though Neubrandenburg-Trollenberg's business model has

changed over the years in question, it is and was different from Heringsdorf's focus on scheduled flights bringing tourists to Usedom. There is, therefore, no duplication of unprofitable airports within the catchment area.

- (107) The Commission therefore concludes that the operation of the airport meets a clearly defined objective of common interest.

Need for State intervention

- (108) Point 116 to 118 of the Aviation Guidelines provide that the aid should be targeted towards situations where the market itself cannot deliver. They specify that under present market conditions, smaller airports may have difficulties ensuring the financing of their operation without public funding, in particular airports with up to 200 000 passengers per annum.
- (109) The balance sheets and further financial information provided to the Commission covering the years 2004 to 2013 show that Heringsdorf airport was not able to cover its operating costs, even though the activities were kept to the strict minimum necessary to operate an airport. No investments were made in side-activities, such as shops or restauration and the same staff carries out a variety of tasks necessary at an airport. Even when limiting itself to the most basic airport activities the revenues were not sufficient to cover its costs.
- (110) Germany has also explained that it is not feasible for the airport to raise fees in order to increase revenues. The airport's landing fees and parking charges are already significantly higher than the fees charged by other airports in northern Germany, for example Rostock-Laage, Stralsund-Barth or Schwerin-Parchim. Raising them further would, therefore, have further increased the price of flight tickets, which in all likelihood would have led to less passengers and would have made it unattractive for airlines to fly to Heringsdorf.

- (111) There was thus a need for State intervention.

Appropriateness of the aid measure

- (112) Point 120 of the Aviation Guidelines states that any measure of aid to an airport must be an appropriate policy instrument to address the objective of common interest. The Member State must, therefore, demonstrate that no other less distortive policy instruments or aid instruments could have allowed the same objective to be reached.
- (113) According to the German authorities, the aid measures at stake are appropriate to address the intended objective of common interest that could not have been achieved by another less distortive policy instrument. Given the delicate financial situation of Heringsdorf airport it is not likely that it could have obtained and reimbursed loans to cover the operating funding gaps. It is not clear, therefore, what other more appropriate policy or aid instrument could exist.
- (114) In view of the above, the Commission considers that the measures at stake were appropriate to reach the desired objective of common interest.

Incentive effect

- (115) According to 124 of the Aviation Guidelines, the incentive effect for operating aid is present if it is likely that, in the absence of operating aid, the level of economic activity of the airport would be significantly reduced. This assessment needs to take into account the presence of investment aid and the level of traffic at the airport.
- (116) The German authorities submit that without the aid the operations at Heringsdorf would have had to close down, as the airport was not able to cover the operating losses. The financial information submitted by Germany show that the airport was not profitable over the years during which the operating aid was granted and confirms the fact that the airport could not have operated without the public support.
- (117) In view of the above, the Commission considers that the aid measures at stake had an incentive effect.

Proportionality of the aid (aid limited to the minimum)

- (118) Point 125 of the Aviation Guidelines, provides that in order to be proportionate, operating aid to airports must be limited to the minimum necessary for the aided activity to take place.
- (119) The German authorities demonstrated that only operating losses were compensated and that the compensation was limited to the minimum necessary not to put the liquidity of the airport in danger. The profit and loss accounts of 2004 – 2013 also confirm that the airport was not profitable over these years.
- (120) Therefore, the Commission considers that the operating aid amount was proportional and limited to the minimum necessary for the aided activity to take place.

Avoidance of undue negative effects on competition and trade between Member States

- (121) According to point 135 of the Aviation Guidelines, when assessing compatibility of operating aid account will be taken of the distortions of competition and the effects on trade.
- (122) In the present case the Commission observes that there are no other airports located in Herginsdorf's catchment area, (see also recital (71) above).
- (123) In view of the above, the Commission considers that the undue negative effects on competition and trade between Member States are limited to the minimum.

Conclusion

- (124) In view of the above assessment, the Commission considers that the past operating aid to the airport of Heringsdorf is in accordance with the compatibility conditions set out in the Aviation Guidelines.
- (125) Therefore, the past operating aid is compatible with the internal market on the basis of Article 107 (3) (c) of the TFEU.

3.2.4. 2014 - 2018 operating aid

- (126) Operating aid granted to airports after 4 April 2014 will be considered compatible with the internal market pursuant to Article 107(3)(c) TFEU for a transitional period of 10 years provided that the cumulative conditions mentioned above are fulfilled as set out in points 113 to 134 of the Aviation Guidelines. Compatibility with these criteria will be assessed below.

Contribution to a well-defined objective of common interest

- (127) Recitals (65) and (66) above outline how the airport of Heringsdorf facilitates regional development. Recitals (70) and (71) above explain that there is no other airport situated within the same catchment area and there is therefore no duplication of unprofitable airports within the catchment area.
- (128) The Commission therefore concludes that the continued operation of the airport infrastructure meets a clearly defined objective of common interest.

Need for State intervention

- (129) The *ex-ante* business plan submitted by Germany shows that Heringsdorf airport will not be able to cover its operating costs. Recital (113) above explains why increasing the airport's fees is not a viable option to increase revenues. Also, the airport reduced staff to an absolute minimum in 2011 and further staff cuts are not feasible if the operation of the airport is to be ensured. For 2014 to 2018 Germany expects the funding gaps as described in recital (27) above. The revenues will not be sufficient to cover its costs and there is, thus, a need for State intervention.

Appropriateness of the aid measure

- (130) According to the German authorities, the aid measures at stake are appropriate to address the intended objective of common interest that could not have been achieved by another less distortive policy instrument. Given the delicate financial situation of Heringsdorf airport it is not likely that it could obtain and reimburse loans to cover the operating funding gaps, especially as the *ex-ante* business plan does not foresee that the airport will be profitable in the medium or long-run. It is not clear, therefore, what other more appropriate policy or aid instrument could exist.
- (131) In accordance with points 121 and 122 the aid amount is, in principle, to be established *ex ante* as a fixed sum covering the expected operating funding gap (determined on the basis of an *ex ante* business plan). In exceptional circumstances, where future costs and revenue developments are surrounded by a particularly high degree of uncertainty and the public authority faces important information asymmetries, the public authority may calculate the maximum amount of compatible operating aid according to a model based on the initial operating gap at the beginning of the transitional period. The initial operating funding gap is the average of the operating funding gaps (that is to say the amount of operating costs not covered by revenues) during the five years preceding the beginning of the transitional period (2009 to 2013).

- (132) Recital (25) above describes why the future costs and revenue developments at the airport of Heringsdorf are surrounded by a particularly high degree of uncertainty. This is why the German authorities do not notify a fixed sum covering the expected operating funding gap, but notify a maximum aid amount of EUR 472 997 annually based on the initial operating funding gap, even though they intend to only compensate the actual operating funding gap in the years 2014 to 2018.
- (133) In view of the above, the Commission considers that the measures at stake are appropriate to reach the desired objective of common interest.

Incentive effect

- (134) The German authorities submit that without the aid the operations at Heringsdorf would have had to close down, as the airport will not be able to cover the operating losses in 2014 to 2018, which they expect to be lower than this. The ex-ante business plan demonstrates that even with efforts to increase efficiencies the airport will only be able to lower its operating funding gap, but it will not be able to cover its costs and maintain operations at current levels without the aid.
- (135) In view of the above, the Commission considers that the aid measures at stake had an incentive effect.

Proportionality of the aid (aid limited to the minimum)

- (136) Point 125 of the Aviation Guidelines, foresees that in order to be proportionate, operating aid to airports must be limited to the minimum necessary for the aided activity to take place. For airports with less than 700 000 passengers point 130 of the Aviation Guidelines goes on to specify that they may face increased difficulties in achieving the full cost coverage during the 10-year period. For this reason the Aviation Guidelines allow the maximum permissible aid amount for these airports to be 80% of the initial operating funding gap for a period of five years after the beginning of the transitional period. The Commission will reassess the need for continued specific treatment and the future prospects for full operating cost coverage for this category of airport, in particular with regard to the change of market conditions and profitability prospects.
- (137) As explained in recitals (27) to (29) the public authorities plan to cover the airport's operating funding gap during the years 2014 to 2018 up to a maximum of EUR 472 997 annually. This is 80% of EUR 591 245,85, which is the average operating funding gap during the five years preceding the beginning of the transitional period (2009 to 2013).
- (138) The actual aid amount granted will reflect annual operating funding gaps from 2014 to 2018, which are expected to be lower than the upper aid threshold of EUR 472 997 and the municipality of Heringsdorf, as well as the Landkreis Vorpommern-Greifswald will ensure that the airport will not receive more funding than necessary. Both municipalities face a difficult financial situation and need to comply with household rules. The Ministry of the Interior of the Land Mecklenburg-Vorpommern as legal supervisory authority will also verify that the compensation is kept to the minimum necessary.

- (139) Beyond 2018 the German authorities claim that the intention is to reduce the operating aid to approximately one third of current aid levels, but they do not think that it is possible for an airport with the business model and passenger numbers of Heringsdorf to operate without any operating aid.
- (140) In view of the above, the Commission considers that the operating aid amount in the case at stake is proportional and limited to the minimum necessary for the aided activity to take place.

Avoidance of undue negative effects on competition and trade between Member States

- (141) Points 131 to 134 of the Aviation Guidelines foresee that account will be taken of the distortions of competition and the effects on trade when assessing operating aid. Where an airport is located in the same catchment area as another airport with spare capacity, the business plan, based on sound passenger and freight traffic forecasts, must identify the likely effect on the traffic of the other airports located in the catchment area. In addition, it must be demonstrated that all airports in the same catchment area will be able to achieve full operating cost coverage at the end of the transitional period. And finally, the airport must be open to all potential users and not be dedicated to one specific user.
- (142) In the present case the Commission observes that there are no other airports located in Herginsdorf's catchment area. See also recital (71) above.
- (143) In order to further limit the negative effects on competition and trade, the German authorities submit that Heringsdorf's infrastructure is and will remain open to all potential users and is and will not be dedicated to one specific user. Currently, three airlines fly to ten destinations.
- (144) In view of the above, the Commission considers that the undue negative effects on competition and trade between Member States are limited to the minimum.

Transparency of aid

- (145) As described in recital (32) the German authorities have committed to respect the transparency requirements associated to the future operating aid.

Conclusion

- (146) In view of the above assessment, the Commission considers that the notified operating aid to the airport of Heringsdorf is in accordance with the compatibility conditions set out in the Guidelines.
- (147) Hence, the operating aid is compatible with the internal market on the basis of Article 107 (3) (c) of the TFEU.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid 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 electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission