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**Subject: State aid SA.37963 (2014/NN) (ex 2013/CP) – United Kingdom
Alleged State aid to Glenmore Lodge**

Sir,

1. PROCEDURE

- (1) By letter dated 17 December 2013, the Commission received a complaint concerning alleged aid granted by the UK authorities to Glenmore Lodge, in the form of direct grants, donations of assets by its parent company and leasing of property below market rate. The complainant has asked for its identity to remain confidential.
- (2) A non-confidential version of the complaint was forwarded to the UK authorities, who submitted their comments on 7 April 2014.
- (3) On 24 July 2014, the Commission services wrote to the complainant, expressing a preliminary view that the measure did not involve State aid. The complainant submitted further information on 17 September 2014.
- (4) The UK authorities provided additional information on 2 December 2014.

2. DESCRIPTION OF THE ALLEGED MEASURES

- (5) Glenmore Lodge is a National Outdoor Training Centre in the Scottish mountains. It belongs to the public institution *Sportscotland* and is active in two domains: a) provision of qualification courses for mountain coaches and instructors; and b)

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provision of training in mountain skills, mountain biking as well as mountain walking and navigation for non-coaches.

- (6) The complainant is a local undertaking providing training in the same sort of activities. The complaint concerns exclusively the part of Glenmore Lodge's activity which concerns the provision of training in mountain skills, mountain biking as well as mountain walking and navigation for non-coaches. According to the complaint, in the fiscal year ending March 2010, Glenmore Lodge received GBP 850 000 from the State, i.e. GBP 665 000 in cash and GBP 185 000 in asset donation, including the lease of its premises from Sportscotland for only GBP 1 per year. Also, in the same year, Glenmore Lodge's external income (from training, accommodation, equipment etc) was GBP 1 235 000. The complainant also states that Glenmore Lodge organises holidays and courses in France (mountain walking in the French Alps), Austria (ski touring), Greece (sea kayaking) and Denmark (sea kayaking in Greenland), that travel operators located abroad (France, Netherlands and Ireland) organise adventure trips in Scotland, and that private operators located in the UK and Scotland organise mountain trips to France and Italy. Furthermore, the complainant submits that there are over 350 companies in the Scottish adventure tourism market, which can be described as fragmented, and that the sector largely consists of adventure travel operators and activity providers, often small and medium sized enterprises. Finally, the complainant has submitted a State aid report of the Scottish authorities, dated June 2011, according to which the beneficiary had received State aid in the manner described by the complainant.

3. COMMENTS OF THE UK AUTHORITIES ON THE COMPLAINT

- (7) In response to the complaint, the UK authorities have argued that courses available at Glenmore Lodge are unlikely to have an effect on trade within the EU, because the demand for their services does not arise outside the UK. The UK authorities have also pointed to the fact that Glenmore Lodge does not promote itself EU-wide or in foreign languages, that no foreign students participated in its winter skills courses over the past three years, that no demand for the use of Glenmore Lodge's services occurs outside the UK and that the participants in Glenmore Lodge's overseas courses are from the UK.
- (8) Furthermore, the UK authorities have argued that the market for the provision of this type of training courses and economic activity is not targeted at customers from other Member States, and that the reality is that the courses are specifically targeted to teach people how to safely enjoy the Scottish outdoors. The UK authorities have submitted data demonstrating that the ski and kayaking courses organised by Glenmore Lodge in other Member States (France, Croatia and Greece) have generated income corresponding only to 4%-7% of Glenmore Lodge's total yearly commercial income, i.e. excluding public funds, for the years 2011-2013.

4. ASSESSMENT OF THE MEASURES UNDER ARTICLE 107(1) TFEU

- (9) According to Article 107(1) TFEU, State aid is 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, in so far as it affects trade between Member States. The conditions laid down by that provision for a finding of State aid are cumulative. Only insofar as all these criteria of

Article 107(1) TFEU are met could the alleged measures constitute State aid within the meaning of Article 107(1) TFEU.

- (10) In this case, the Commission has gathered information from the UK authorities. As mentioned in Paragraphs (7)-(8) above, the UK authorities have submitted arguments regarding the measures' lack of effect on trade between Member States. On the basis of this information, the Commission has found as follows.

Effect on trade between Member States

- (11) Public support can be considered capable of having an effect on intra-Union trade even if the recipient is not directly involved in cross-border trade. For instance, the aid may make it more difficult for operators in other Member States to enter the market by maintaining or increasing local supply,¹ or to exercise their right of establishment.
- (12) It is settled case-law that the Commission is not required to carry out an economic analysis of the actual situation on the relevant markets, the market share of the undertakings in receipt of the aid, the position of competing undertakings or trade flows between Member States.² In the case of aid granted unlawfully, the Commission is not required to demonstrate the actual effect which that aid has had on competition and on trade.
- (13) Nevertheless, an effect on intra-Union trade cannot be merely hypothetical or presumed. It must be established why the measure distorts or threatens to distort competition and it is liable to have an effect on trade between Member States, based on the foreseeable effects of the measure.³
- (14) In that respect, the Commission has in several cases⁴ considered that certain activities have a purely local impact and no such effect. It seems appropriate to check in particular whether the beneficiary supplies goods or services to a limited area within a Member State and it is unlikely to attract customers from other Member States, and whether it can be foreseen that the measure will have more than a marginal effect on the conditions of cross-border investments or establishment.
- (15) In the present case, with regard to the geographical zone within which the alleged beneficiary's services compete, the Commission takes the view that the services provided cater to a local market.
- (16) In support of this position, the Commission notes that Glenmore Lodge provides for two different activities. The first type of activity consists in organising courses

¹ See for instance Case C-280/00 *Altmark Trans and Regierungspräsidium Magdeburg* ECLI:EU:C:2003:415, paragraph 78; Joined Cases C-197/11 and C-203/11 *Libert and Others* EU:C:2013:288, paragraph 78; and Case C-518/13 *Eventech* ECLI:EU:C:2015:9, paragraph 67.

² See for instance Case C-279/08 P *Commission v Netherlands* ECLI:EU:C:2011:551, paragraph 131.

³ See Joined Cases T-447/93, T-448/93 and T-449/93 *AITEC and others v Commission* ECLI:EU:T:1995:130, paragraph 141.

⁴ See for instance, the Commission decisions in State aid cases N 258/2000 *Leisure Pool Dorsten*, OJ C 172, 16.6.2001, p. 16; C10/2003 *Netherlands – Non-profit harbours for recreational crafts*, OJ L 34, 06.02.2004, p. 63; N 458/2004 *Editorial Andaluza Holding* OJ C 131, 28.5.2005, p. 12; SA.33243 *Jornal de Madeira*, OJ C 16, 19.1.2013, p. 1; SA.34576 *Portugal – Jean Piaget North-east Continuing Care Unit*, OJ C 73, 13.3.2013, p. 1; and N 543/2001 *Ireland – Capital allowances for hospitals*, OJ C 154, 28.6.2002, p. 4.

and certifications for coaches and trainers, which leads to a qualifications issued by National Governing Bodies (NGB) for different sports. NGBs are UK typical private bodies that regulate and govern their sports through the common consent of its practitioners. Bodies which have achieved pre-eminence within their sport and have a sufficient degree of organisation and governance can be recognized as NGB to govern a sport at UK or Scotland level. Recognition of NGBs is afforded by the UK sports council, of which the council for Scotland is Sportscotland.

- (17) Sportscotland operates Glenmore Lodge as Scotland's "National Outdoor Training Centre". Its primary function is to create and develop instructor and coach qualifications for the NGBs. To that end, Glenmore Lodge also provides training leading to NGB qualifications for coaches, trainers, leaders and practitioners of outdoors sports. According to the information submitted to the Commission, around half of the customers in Glenmore Lodge were participants in such NGB training in the financial years 2010-2011 and 2012-2013.
- (18) The Commission notes that the NGB courses are provided in support of the activity of the NGBs and are designed to prepare the participants to obtain the NGB-issued qualifications which are necessary to act as coaches, trainers and leaders in respect of the different sports. The regulatory authority of the NGBs – and hence then relevance of the qualifications they may bestow – is regional or at most national. It is therefore in the nature of the NGB courses that they target customers who are resident in Scotland (or at most in the UK).
- (19) With regard to the second type of courses ("skills courses"), offered to the general public, Glenmore Lodge proposes skill courses designed for the participants to experience new outdoor disciplines or to improve their outdoor sporting skills and knowledge. This activity is secondary to the NGB courses and intended to generate some revenue for Glenmore Lodge to supplement the NGB courses which benefit from the support of Sportscotland. According to the information available, the Commission finds that the activities provided address a local market. Indeed, Glenmore Lodge addresses only local customers, to whom it provides its services, mainly in the Scottish mountains and to a lesser extend overseas (7% of Glenmore Lodge's revenue in the year 2012/13, coming from 50 participants). Moreover, the Commission notes that the scope of this activity is very limited. In the year 2012/13, only 1248 customers participated in the skills courses (out of a total of 2555 customers, including the NGB qualification courses). The very limited scope of the activity indicates that any public financial support to Glenmore Lodge is unlikely to have more than a marginal effect, if any, on the trade between the Member States.
- (20) Furthermore, the Commission notes that no foreign students participated in Glenmore Lodge's winter skills courses over the past three years. As regards Glenmore Lodge's overseas courses, the Commission notes that the participants in those courses are from the UK and that, in general, no demand for the use of Glenmore Lodge's services occurs outside the UK. Finally, Glenmore Lodge's overseas activity represents only a small part of its yearly total activity, ranging from 4% to 7% in the years 2011-2013 (as also presented in recital (17) above).
- (21) With regard to the effect on the conditions of cross-border investments or establishment, the Commission notes that there is no positive evidence of relevant cross-border investments in the sector of courses providing outdoor sporting

training for the provision of qualification courses, as well as the provision of training in mountain skills and navigation for non-coaches in Scotland. In the light of the available information submitted to the Commission, no foreign investors are based in Scotland in order to offer similar services in the same domain as the alleged beneficiary.

- (22) Based on an overall assessment of the above indications, the Commission considers, in light of the available information, that the measure cannot reasonably be foreseen to have more than a marginal effect, if any, on the conditions of cross-border investment and establishment between Member States.
- (23) In light of the above, in the present case, the Commission considers that the public grants to Glenmore Lodge are not liable to affect trade between Member States, as specifically detailed in the paragraphs above. As a result, there is no need to examine the other cumulative conditions for the existence of State aid within the meaning of Article 107(1) TFEU. The advantage conferred by the national authorities to Glenmore Lodge does not fulfil the condition laid down in Article 107(1) TFEU.
- (24) The Commission has therefore reached the conclusion that the measure in question does not constitute State aid pursuant to Article 107(1) TFEU.

5. DECISION

- (25) In light of the foregoing assessment, the Commission has accordingly decided that the measure described in the complaint does not constitute State aid pursuant to Article 107(1) TFEU.

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, by registered letter or by fax to:

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Yours faithfully,
For the Commission

Margrethe VESTAGER
Member of the Commission

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
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