EUROPEAN COMMISSION

Brussels, 19.01.2016
C(2016) 112 final

PUBLIC VERSION
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Subject: State aid SA.38757 – Sweden
Skelleftea Airport – entrustment of a Service of General Economic Interest

Madam,

1. PROCEDURE
   (1) By letter dated 3 December 2014, Sweden notified to the Commission the entrustment to Skelleftea airport of a Service of General Economic Interest (hereinafter: SGEI) by Skelleftea Municipality. The measure was registered under the State aid case number: SA.38757. By letter dated 9 December 2014, Sweden submitted additional information.

   (2) Since the act of entrustment of SGEI had already been adopted, the Commission transferred, on 3 February 2015, the case to the non-notified aid register (NN case). The Commission informed Sweden about the above transfer by letter with the same date.

   (3) By letter dated 24 February 2015, Sweden agreed to receive further communication on the case in English.

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The Commission requested further information on the measure by letter dated 16 March 2015.

By letter dated 22 April 2015, Sweden asked for an extension of the deadline, until 31 May 2015, to submit the additional information requested by the Commission. The Commission agreed to this request by letter dated 30 April 2015.

By letters dated 29 May 2015, 2 October 2015 and 5 January 2016 Sweden provided additional information requested by the Commission.

2. DESCRIPTION OF THE MEASURES

**Skelleftea Airport**

Skelleftea airport is a regional airport located in Vasterbotten Region, Sweden. The airport primarily serves Skelleftea Municipality as well as the neighbouring municipalities of Mala, Norsjo, Sorsele and Storuman and, to a lesser extent, Pitea, Robertfors, Lycksele and Vindeln.

The region where the airport is located is very sparsely populated – 4.8 inhabitants/km² (the EU average is 116 inhabitants/km²). The population of Skelleftea and of Mala and Norsjo municipalities, which are in the vicinity of Skelleftea airport, is 79387 people, equivalent to 7.5 inhabitants per square kilometre.

Currently, two air carriers offer regular services from Skelleftea airport (SAS: flights to Stockholm Arlanda, 1375 departures per year; Ryanair: flights to London Stansted, 85 departures per year). In addition, the airport is used by charter operators (flights to: Turkey, Croatia, Greece and Spain, in total around 40 departures per year).

The passenger traffic in Skelleftea airport in the last 6 years is presented in the table below:

<table>
<thead>
<tr>
<th>Year</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014 Q1-Q3</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of passengers</td>
<td>205,971</td>
<td>225,301</td>
<td>277,998</td>
<td>292,193</td>
<td>294,970</td>
<td>238,726</td>
</tr>
</tbody>
</table>


Two airports operated by Swedavia (State owned company) are the closest airports to Skelleftea airport:

- Umea airport who serves around 1 million passengers per year is located around 125 km from Skelleftea airport and 140 km from the city of Skelleftea (respectively around 1 h 30 minutes and 1 h 40 minutes by car);
Lulea airport serves annually 1.1 million passengers and is located around 150 kilometers from Skelleftea airport and 130 km from the city of Skelleftea (respectively around 1 h 45 minutes and 1 h 30 minutes by car).

(12) Until 2010, Skelleftea airport was operated by Swedavia. Following the Swedish government decision that the state owned company, Swedavia would operate only around ten airports, on 1 April 2010, Skelleftea airport was taken over by Skelleftea Municipality. The airport is now operated by Skelleftea City Airport AB (hereinafter: "Skelleftea airport"). Skelleftea airport is a municipal company, 100% owned by Skelleftea Municipality through its parent company Skelleftea Stadshus AB (also 100% owned by Skelleftea Municipality). Skelleftea airport has no other economic activities than to operate the airport.

*Entrustment of a service of General Economic Interest*

(13) On 16 December 2013, Skelleftea Stadshus AB, the company fully owned and controlled by Skelleftea Municipality, adopted an act of entrustment of an SGEI to Skelleftea airport. The act specifies that the SGEI is established by reason of and pursuant to conditions that follow from the requirements set out in the Commission Communication on European Union framework for State aid in the form of public service compensation\(^1\) (hereinafter: "the SGEI Framework").

(14) According to the act of entrustment:

- The airport must operate the service so that it is able to receive all airlines which wish to establish traffic to and from the airport under the prevailing commercial conditions and published opening hours. This means, inter alia, the airport shall, additionally, ensure that passengers have access to parking close to the terminal building and also ensure that basic restaurant and café services, and other usual sales outlets, are available at the airport;

- Moreover, Skelleftea Municipality and Vasterbotten Region will annually compensate the airport from public funds at an amount equivalent to the operating loss of that year;

- The act of entrustment shall apply until 31 December 2023.

(15) On 18 February 2014, the act of entrustment was approved by the Municipal Council of Skelleftea.

(16) On 18 May 2015, the board of Skelleftea Stadshus AB adopted a supplementary decision that amended and clarified the act of entrustment of 16 December 2015 and became its integral part. In the event of a conflict between the act of entrustment and the supplementary decision, the provisions

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\(^1\) European Union framework for State aid in the form of public service compensation. OJ C 8 of 11.1.2012, p.15.
of the decision of 18 May 2015 shall take precedence. The supplementary decision was approved by the Municipal Council of Skelleftea on 15 September 2015.

(17) According to the supplementary decision of 18 May 2015:

(i) Skelleftea airport shall ensure that commercial air traffic to and from the airport can be operated during the period of validity of the act of entrustment. The airport operator's obligations, therefore, include management of the airport infrastructure so that it meets the requirements applying for the operation of commercial traffic in terms of safety, accessibility and emergency preparedness. The company shall provide services to the extent that they are necessary for the operation of commercial traffic at the airport, such as baggage handling, checking in of passengers, refuelling and de-icing of aircraft. All financial links between Skelleftea airport and airlines shall be compatible with the Market Economy Operator Test, as defined in in the 2014 Aviation Guidelines\(^2\) (hereinafter: "the Aviation Guidelines").

(ii) As a basis for the calculation of compensation, Skelleftea airport shall, ahead of each year's annual closing, report the following information concerning the accounting year just ended:

- Skelleftea airport's net cost for the SGEI covered by the act of entrustment and by the supplementary decision;
- Which other operations (beside SGEI) have been conducted by Skelleftea airport during the year, and what combined net cost or combined net profit these activities have entailed;
- Key figures for the efficiency of the operation compared to comparable airports in Sweden (currently Norrkoping airport, Smaland airport, Ormskoldsvik airport, Jonkoping airport, Sundsvall Timra airport, Kalmar Oland airport and Karlstad airport) which, at a minimum, cover the airports' annual average number of employees, total operating costs, number of passengers and aircraft movements. If Skelleftea airport reports less positive developments during the year than the comparison airports, an acceptable explanation for this must be submitted, as well as what measures will be undertaken to boost efficiency.

Reporting pursuant to bullets 1–2 above shall take place using a method which complies with pp 28–31 of the SGEI Framework.

(iii) Compensation from Skelleftea Municipality to Skelleftea airport, via Skelleftea Stadshus AB, for the carrying out of SGEI shall be established each year on a retroactive basis. The compensation may not exceed the net cost of the SGEI reported by the company in accordance

with the above requirements. If Skelleftea airport does not supply an acceptable explanation for its having had a poorer productivity development than its comparison airports, the compensation may not exceed the net cost which the company would have incurred if its productivity development for the relevant key figure had been equivalent to that of the comparison airports.

3. ASSESSMENT OF THE MEASURE

3.1. Presence of aid within the meaning of article 107(1) TFEU

(18) According to Article 107(1) TFEU3 "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".

(19) The criteria laid down in Article 107(1) are cumulative. Therefore, in order to determine whether the notified measure constitutes State aid within the meaning of Article 107(1) TFEU, all the above mentioned conditions need to be fulfilled cumulatively. Namely, the financial support should:

- be granted by a Member State and through State resources,
- favour certain undertakings or the production of certain goods,
- distort or threaten to distort competition,
- affect trade between Member States.

Economic activity and notion of undertaking

(20) According to settled case law, the Commission must first establish whether Skelleftea airport 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 financed.4 Any activity consisting in offering goods and services on a given market is an economic activity.5

(21) In its "Leipzig-Halle airport" judgment the Court of Justice confirmed that the operation of an airport for commercial purpose and the construction of the airport infrastructure constitute an economic activity.6 Once an airport

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operator engages in economic activities, regardless of its legal status or the
way in which it is financed, it constitutes an undertaking within the meaning
of Article 107(1) of the TFEU, and the Treaty rules on State aid therefore
apply.7

(22) In this regard, the Commission notes that the airport in question is operated on
a commercial basis as any air carrier that wants to use the airport can do it
against payment of applicable airport fees, as established in the airport's
schedule of charges. It follows that the entity exploiting the airport constitutes
an undertaking for the purposes of Article 107(1) of the TFEU.

State resources and imputability to the State

(23) The compensation is to be paid by local authorities, i.e. Skelleftea
Municipality and Vesterbotten Region, from their budgets. The financing was
decided by Skelleftea Stadshus AB, the company fully owned and controlled
by Skelleftea Municipality.

(24) Therefore, the Commission considers that the measure is financed by public
funds constituting State resources and is imputable to the State.

Selective economic advantage

(25) The Commission recalls that SGEI compensations granted to a company may
not constitute an economic advantage under certain strictly defined conditions.

(26) In particular, in its Altmark judgment,8 the Court of Justice held that where a
State measure must be regarded as compensation for the services provided by
the recipient undertakings in order to discharge public service obligations, so
that those undertakings do not enjoy a real financial advantage and the
measure thus does not have the effect of putting them in a more favourable
competitive position than the undertakings competing with them, such a
measure is not caught by Article 107(1) TFEU.

(27) However, the Court also made clear that for such public service compensation
to escape qualification as State aid in a particular case, the four cumulative
criteria ('Altmark criteria'), summarized below, must be satisfied:

1. The recipient undertaking must actually have public service obligations
to discharge and those obligations must be clearly defined. (First
Altmark criterion)

C-288/11 P Mitteldeutsche Flughafen and Flughafen Leipzig-Halle v Commission, [2012],
not yet published in the ECR; see also Case T-128/89 Aéroports de Paris v Commission
[2000] ECR II-3929, confirmed by the ECJ, Case C-82/01P, ECR 2002 Page I-9297, and

8 Case C-280/00 Altmark Trans GmbH and Regierungspräsidium Magdeburg v
 Nahverkehrsgesellschaft Altmark GmbH. See also point 42 et seq. of the Communication
from the Commission on the application of the European Union State aid rules to
compensation granted for the provision of services of general economic interest Official
Journal C8, 11.01.2012, p. 4-14.
2. The parameters on the basis of which the compensation is calculated must be established in advance in an objective and transparent manner. *(Second Altmark criterion)*

3. The compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of the public service obligations, taking into account the relevant receipts and a reasonable profit. *(Third Altmark criterion)*

4. Where the undertaking which is to discharge public service obligations, in a specific case, is not chosen pursuant to a public procurement procedure, which would allow for the selection of the tenderer capable of providing those services at the least cost to the community, the level of compensation needed must be determined on the basis of an analysis of the costs which a typical undertaking, well run and adequately provided with means to meet the public service obligations, would have incurred, taking into account the relevant receipts and a reasonable profit from discharging the obligations (hereinafter a "typical undertaking"). *(Fourth Altmark criterion)*

(28) In its *Communication on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest* (hereinafter "the SGEI communication"), the Commission provides guidelines on the application of State aid rules to SGEI. The communication clarifies the conditions, laid down by Altmark criteria, under which public service compensation does not constitute State aid.

(29) Given that the conditions of applicability of the Altmark case-law are cumulative, non-compliance with any one of these conditions would lead to the qualification of the measure under review as State aid within the meaning of Article 107 TFEU. Therefore, the Commission will begin its analysis by assessing whether, for the assessed compensation, the fourth Altmark criterion is met (i.e. whether the selection of an undertaking providing an SGEI was based on a public tender procedure or, alternatively, whether the SGEI compensation granted is based on the analysis of costs of a typical, well-run undertaking).

(30) The Commission notes that Skelleftea airport is a company owned by a local authority, i.e. Skelleftea Municipality. The airport operator was not selected with a public procurement procedure for the public service obligations it is entrusted with.

(31) Therefore, for the fourth Altmark criterion to be fulfilled, it has to be verified whether the assessed compensation was determined on the basis of an analysis of costs which a typical undertaking, well run and adequately provided with means to meet the public service obligations, would have incurred, taking into account the relevant receipts and a reasonable profit from discharging the obligations.

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According to recital 75 of the SGEI communication "If the Member State can show that the cost structure of the undertaking entrusted with the operation of the SGEI corresponds to the average cost structure of efficient and comparable undertakings in the sector under consideration, the amount of compensation that will allow the undertaking to cover its costs, including a reasonable profit, is deemed to comply with the fourth Altmark criterion”.

The Commission notes that Sweden did not provide any analyses showing that the cost structure of Skelleftea airport corresponds to the average cost structure of efficient and comparable undertaking operating an airport.

The Commission also notes that the efficiency mechanism, included in the act of entrustment, under which the compensation can be reduced if the airport reports less positive developments during the year than the comparison airports (seven public-owned, small regional Swedish airports) is not relevant in this respect, especially because Sweden did not provide any analyses that these airports are run efficiently.

Sweden did also not provided any analyses showing that applying the so-called "Basic airport" concept (described in recital (57)) results in the cost structure of efficient, well run undertaking in the sector in question.

Consequently, the Commission considers that the fourth Altmark criterion is not complied with in this case. As the conditions set out in the Altmark judgment are cumulative, failure to comply with any one of the four conditions necessarily leads to the conclusion that the financing measures under review grant an economic advantage in the sense of Article 107(1) TFEU.

**Distortion of competition and effect on trade**

The Commission notes that when aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing in intra-Union trade, the latter must be regarded as affected by that aid.

In accordance with settled case law, for a measure to distort competition it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.

The Commission considers that any undue economic advantage granted to an airport operator from public resources can strengthen the beneficiary's position vis-à-vis its competitors on the market of providers of airport services. The Commission notes that many operators are in competition for the management of airport infrastructure in Europe, including local and regional airports. In addition, airport operators compete for air carriers to operate from their airports. Aid to Skelleftea airport may therefore distort competition in the markets for airport infrastructure operation by reinforcing its economic position and by reducing business opportunities for competing airports.

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Therefore, the public funding under examination distorts or threatens to distort competition and affects trade between the Member States.

Legality of the measure

Pursuant to the standstill clause of Article 108(3) TFEU and to Article 3 of Council Regulation No 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, new aids must not be put into effect before the Commission has taken a decision authorising such aids.

The Commission notes that the act of entrustment does not contain any clause that makes granting of the aid conditional upon the approval by the Commission. Moreover, the entrustment was notified to the Commission around one year after it had been adopted.

Therefore, the Commission is of the opinion that the compensation measure was granted in breach of the standstill clause and is to be considered as illegal.

Conclusion on the existence and legality of the aid

For the reasons set out above, the Commission concludes that the compensation granted to Skelleftea airport constitutes State aid within the meaning of Article 107(1) TFEU.

Given that the measure at stake was not a subject to the Commission's approval beforehand, Sweden has not respected the standstill obligation of Article 108(3) TFEU.

3.2. Compatibility of the aid

Article 106(2) TFEU provides that "Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Union."

Pursuant to Article 106(3) it is for the Commission to ensure the application of that provision. In part 4.2 of the Aviation Guidelines, the Commission specifies that for airports where the average annual traffic exceeds 200 000 passengers (i.e. also for Skelleftea airport) State aid can be declared compatible pursuant to Article 106(2) TFEU if the conditions of the SGEI Framework are met. For the assessment under the SGEI Framework, the considerations on the definition of public service obligations imposed on airports or airlines in part 4.1 of the Aviation Guidelines apply.

3.2.1. **Genuine service of general economic interest as referred to in Article 106 of TFEU**

(48) Point 12 of the SGEI Framework requires that the aid must be granted for a genuine and correctly defined service of general economic interest. The Commission will verify this in the light of provisions of the Aviation Guidelines.

(49) In point 69 of the Aviation Guidelines, the Commission, referring to Article 106(2) of the Treaty and the first Altmark criterion, underlines that an SGEI should be clearly defined and be entrusted by an act of a public authority. In addition, an SGEI should exhibit special characteristics as compared with ordinary economic activities and its objective cannot simply be that of development of certain economic areas or activities.

(50) In point 72 of the Aviation Guidelines, the Commission specifies that it is possible for the overall management of an airport to be considered an SGEI. However, this is only possible in well-justified cases if part of the area potentially served by the airport would, without the airport, be isolated from the rest of the Union to an extent that would prejudice its social and economic development. Such an assessment should take due account of other modes of transport, and in particular of high-speed rail services or maritime links served by ferries. In such cases, public authorities may impose a public service obligation on an airport to ensure that the airport remains open to commercial traffic.

(51) In point 73 of the Aviation Guidelines, the Commission adds that the scope of public service obligations imposed on airports should not encompass the development of commercial air transport services.

**Arguments put forward by Sweden**

(52) Sweden considers that the very existence of Skelleftea airport is necessary for the region for the socioeconomic reasons. However, it is not possible, due to economic reasons, to operate the airport without systematic public support.

(53) In view of Sweden, the flights from Skelleftea airport are absolutely crucial for accessibility to and from the Swedish capital, but also for international connections to and from the area in question. For example, there are no train connections from the area in question to Stockholm. They are available, in a very limited number from Bastutrask, which is the nearest railway station (located around 50 km from Skelleftea). However, a journey to Stockholm takes, in this case, more than 12 hours. The distance from Skelleftea to Stockholm by car is 770 km, and the driving time is over eight hours.

(54) Sweden considers that the airport is also an absolute necessity for businesses to exist, invest or re-establish themselves in the area in question, and for attracting and retaining skills and resources. The area needs fast connections, both within Sweden and abroad, but primarily to the EU, which is Sweden’s largest export market. It is also of vital importance for the public and for citizens’ opportunities to interact with Europe and the rest of the world, both
for business and for leisure. The speed, reliability and scope of the flights mean that there is no realistic alternative for most of the inhabitants, businesses and visitors in this area.

(55) Moreover, Sweden informed the Commission that according to a study, carried out by IUC Sweden AB, the socio-economic benefits of the airport to Skellefteå and the entire Västerbotten Region are estimated to be SEK 47.2 million per annum, which is equivalent to 162.6 FTEs\textsuperscript{12}. These figures show what the activities directly related to the airport add to society (at municipal, regional and national level) in terms of direct economic value and jobs.

(56) Sweden also considers that airport is not able to function without a systematic financial support. This view is based on the historic data. The airport has received public funding every year since it started in 1961. From 1 April 2010 onwards, the costs have been covered through group contributions from Skellefteå Municipality’s subsidiary Skellefteå Stadshus AB, and through an annual contribution from Västerbotten Region.

(57) Skellefteå airport applies the Basic Airport concept, which means that all staff at the airport carry out more than one task in order to boost efficient use of resources. As a result, Skellefteå airport currently has a workforce which, according to Sweden, is almost half the size of comparable airports within the EU. Skellefteå airport currently has 48 annual FTEs. With a normal system, the number of annual FTEs would be 74.5. This saving, which directly reduces operating costs, amounts, according to Sweden, to almost SEK 16 million per year.

(58) In view of Sweden, despite the above efficiency efforts, the airport will be unable to generate a profit for the foreseeable future. Skellefteå Airport's calculations show that some 80 % of the airport's costs are fixed, i.e. independent of traffic volume. This is because of high cost of legal requirements imposed on airports by public authorities (e.g. the same level of security must be achieved at Skellefteå airport as at a much larger airport in Sweden). Moreover, operating an airport in arctic conditions, as is the case of Skellefteå airport, further increases the operating costs.

\textit{Assessment}

(59) The definition of the overall management of an airport as SGEI must satisfy the criteria laid out in point 72 of the Aviation Guidelines, according to which such definition is only “possible in well-justified cases if part of the area potentially served by the airport would, without the airport, be isolated from the rest of the Union to an extent that would prejudice its social and economic development.”

(60) The first question is thus whether the area in question, in particular the city of Skellefteå (around 33 000 inhabitants) and its direct vicinity, would be isolated without Skellefteå airport. In the assessment of this question, the

\textsuperscript{12} FTEs - Full Time Employees.
Commission has to verify whether any alternative airports represent acceptable alternative for both general population and companies.

(61) The Commission notes that there are four airports just outside the catchment area of Skelleftea airport. These are: Lulea, Umea, Lyckele and Arvidsjaur airports.

(62) Contrary to Lulea and Umea airports, Lyckele and Arvidsjaur airports are very small airports (around 21,000 and 51,000 passengers per year respectively). From Arvidsjaur airport, there is only one regular route operated (to Stockholm - Arlanda, as a direct connection or with an intermediate stop at Lycksele). At Lyckele airport, the only regular service operated is a stopover on a flight between Arvidsjaur and Stockholm - Arlanda. There are no public transport connections from Skelleftea to Lyckele and Arvidsjaur airports. The roads leading from Skelleftea to these airports are of lower category than from Skelleftea to Umea and Lulea airports, which is especially important in the winter season. In terms of travelling time by car from Skelleftea, both airports are not closer than Lulea and Umea airports.

(63) Therefore, the Commission considers that Lyckele and Arvidsjaur should be excluded from further analyses and the Commission should focus on Lulea and Umea airports and the question if these two airports can play a role of alternative airports for residents of Skelleftea and its direct vicinity as well as for companies located there.

(64) Lulea airport serves around 1.1 million passengers per year travelling on a limited number of regular routes within Sweden (incl. Stockholm), two routes to Finland (Oulu, Helsinki) and the number of charter routes to holiday destinations, mainly in Europe. The airport is located around 150 km to the north of Skelleftea airport and around 130 km to the north of Skelleftea.

(65) Again the fastest way to get to the airport is by car. This travel takes at least 1h 30 minutes from Skelleftea. The travelling time for residents of Vasterbotten Region living to the west or to the south of Skelleftea is longer. There is no direct train linking Skelleftea with Lulea airport and the travel by public transport (bus) takes around 3 hours.

(66) Umea airport is located around 125 km to the south of Skelleftea airport and 140 km to the south of Skelleftea. The airport serves around 1 million passengers per year. There are regular flights to Stockholm, Gothenburg, Helsinki and Are Ostersund as well as a limited number of charter flights.

(67) Again the fastest way to get to the airport is by car. It takes 1 h 40 minutes from Skelleftea. The residents living to the west or to the north of Skelleftea have to travel longer to Umea airport than inhabitants of Skelleftea. There is no direct train from Skelleftea to Umea airport. The travel by public transport (bus) takes around 3 hours.

(68) To conclude on the distance, the Commission notes that for inhabitants living in the centre of the catchment area of Skelleftea airport, i.e. in Skelleftea (the biggest city in this area) and its surrounding, the alternative airport (Lulea or
Umea airport) is, assuming optimal weather and traffic conditions, in the distance of at least 1h 30 minutes by car. It is much more from further located places in the region.

(69) The Commission considers that a travelling time of 1h30 minutes can be acceptable for the large majority of regions in the EU to provide an acceptable level of connectivity to the rest of Europe. However, in this particular case, the Commission considers that the location of the area in the far north, close to the Arctic Circle is relevant in as far as the weather conditions in winter are severe and can significantly prolong travelling time.

(70) This combined setting of circumstances leads to a situation in which, when using Lulea or Umea airports, it will be difficult to travel to a bigger city without overnight stay. Indeed, a return trip to Stockholm would take at least 10–12 hours, and much more under winter conditions. Using Skelleftea airport reduces the time of a return trip by at least 3 hours and makes a one-day trip to Stockholm or another big city more feasible. The possibility of a one-day return trip is especially important for companies, both from the point of view of costs and attractiveness for employees.

(71) Taking the above factors, the Commission considers that Lulea and Umea airports cannot, without Skelleftea airport, provide sufficient standard of connectivity to the Swedish biggest cities and the rest of Europe for the large part of inhabitants living in the current catchment area of Skelleftea airport.

(72) Considering that the closest airports, i.e. Lulea and Umea do not represent an acceptable alternative, the Commission considers that it is not necessary to assess whether these two airports would be able to absorb the current traffic existed in Skelleftea airport.

(73) As far as other means of transport are concerned, the Commission considers that they do not provide a real alternative to air transport. The Commission notes in particular that the closest train station (Bastutrask) is located about 53 km west and about 50 minutes by car from Skelleftea. From Bastutrask rail station, there are only a few trains departing per day but not with a high speed. The travel time by train from Skelleftea to Stockholm is 12h. The distance to Stockholm and other big cities in Sweden and a very limited number of train connections available would, without the airport, isolate the area in question from the rest of Europe. Likewise, the Commission notes that there are no ferry connections from Skelleftea to other regions. Due to geographical reasons any maritime connections would not be able to connect, at a satisfactory level, the discussed area with the main Swedish cities and the rest of Europe.

(74) The Commission considers that a lack of acceptable connections to the Swedish capital and to the rest of Europe would significantly deteriorate the standard of living to inhabitants of the area in question and would reduce the current activities and business perspectives to a number of companies existing there, especially international and/or export oriented. This would, for obvious
reasons, prejudice the social and economic development of the area in question.

(75) The Commission therefore considers that Sweden did not commit a manifest error of appreciation in finding that the area in question would be isolated from the rest of the Union without Skelleftea airport to an extent that would prejudice its social and economic development.

(76) The second question is whether Sweden committed a manifest error of appreciation in considering that the airport could disappear without public support in the form of SGEI compensation.

(77) In this respect, the Commission points at the possibility of a gradual phasing out of public support until 2024, which is normally foreseen for regional airports under the Aviation Guidelines. The Commission recognised there that airports with annual passenger traffic between 200 000 and 700 000 passengers, i.e. also Skelleftea airport, may not be able to fully cover their operating costs. Therefore, the Commission allowed, under certain conditions, that operating aid continues to be granted to such airports in a transitional period of 10 years during which the airports must, with a business plan, pave the way towards full operating cost coverage.

(78) The population density for Vasterbotten Region, where the airport is located, is 4.8 inhabitants/km², i.e. far below the average for Sweden that is 23.4 inhabitants/km² and for the EU that is equal to 116.3 inhabitants/km². The biggest city close to the airport, i.e. Skelleftea (located 18 km from the airport) has only around 33 000 inhabitants. The population of Skelleftea and of Mala and Norsjo municipalities, which are in the vicinity of the airport, is only 79 387 people, equivalent to 7.5 inhabitants per square kilometre.

(79) Further, Skelleftea airport is located at the outer border of the EU, close to the arctic zone and has therefore limited prospects to attract significant numbers of air passengers beyond residents and businesses.

(80) The combination of the low population density in the catchment area, limited prospects of a significant increase in air traffic and the efficiency measures already implemented at the airport support the argument of Sweden that there is a risk that the airport will not be able to significantly increase revenues and therefore to survive without continuous cost compensation.

(81) In the light of the foregoing, the Commission considers that Sweden also did not commit a manifest error of appreciation in considering that the airport could disappear without public support in the form of SGEI compensation. The Commission therefore considers that the conditions of point 72 of the Aviation Guidelines are fulfilled.

(82) The Commission also notes that the entrustment in question does not cover the development of commercial air transport services. Moreover, Sweden

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13 Part 5.1.2. of the Aviation Guidelines.
confirmed that all financial links between Skelleftea airport and airlines shall be compatible with the Market Economy Operator Test, as defined in the Aviation Guidelines\textsuperscript{15}. Therefore, the Commission considers that point 73 of the Aviation Guidelines is complied with.

(83) Sweden also confirmed that car parks as well as services concerning renting premises to restaurant and café services, and other sales outlets, i.e. services that are not necessary for the operation of commercial traffic to and from the airport do not receive any type of support.

(84) In light of the above, the Commission considers that the aid is to be granted for a genuine and correctly defined service of general economic interest, in line with the SGEI Framework and the Aviation Guidelines.

3.2.2. Need for an entrustment act specifying the public service obligations and the methods for calculating compensation

(85) Pursuant to points 15 and 16 of the SGEI Framework, responsibility for the operation of the SGEI must be entrusted by way of one or several acts, the form of which may be determined by the Member State. The act or series of acts must specify at least: the content and duration of the public service obligations; the undertaking and, where applicable, the territory concerned; the nature of any exclusive or special rights assigned to the undertaking by the authority in question; the parameters for calculating, controlling and reviewing the compensation; and the arrangements for avoiding and recovering any overcompensation.

(86) The Commission notes that the SGEI was entrusted to Skelleftea airport with the act of entrustment (defined here as the initial act of entrustment dated 16 December 2013 and the supplementary decision of 18 May 2015 together) adopted by Skelleftea Stadshus AB, the company fully owned and controlled by Skelleftea Municipality\textsuperscript{16}. Therefore, the Commission considers that the act of entrustment was adopted on behalf of Skelleftea Municipality.

(87) Moreover, the Commission notes that the act of entrustment was approved by the Municipal Council of Skelleftea with decisions dated 18 February 2014 and 15 September 2015.

(88) This act states the undertaking, the content and the duration of the public service obligation as well as the compensation method. The act also clarifies that that the SGEI is entrusted by reason of and pursuant to conditions set up in the SGEI Framework.

(89) The Commission notes that the final compensation paid to Skelleftea airport is not to be set up ex-ante but is to be based on factual operating loss of the

\textsuperscript{15} Part 3.5. of the Aviation Guidelines

\textsuperscript{16} Skelleftea Stadshus AB is the parent company for the group of municipal companies owned by Skelleftea (including Skelleftea airport).
airport's operator in a given year that reduced the possibility of overcompensation.

(90) In light of above, the Commission considers that both the content of the act of entrustment and the way it was adopted are in line with the SGEI Framework.

3.2.3. Duration of the period of entrustment

(91) Point 17 of the SGEI Framework requires that the duration of the period of entrustment is "justified by reference to objective criteria".

(92) Sweden informed that the 10-year period specified in the act of entrustment refers to the airport's current maximum amortisation period. After the 10-year period, the Swedish authorities will review the decision to entrust an SGEI to Skelleftea airport.

(93) The Commission notes that operating of an airport requires a large number of tangible assets that depreciate over a long period, therefore, the 10-year period included in the entrustment act can be considered as appropriate.

(94) The Commission also notes that the entrustment is limited in time and the 10-year period of entrustment ends close to the end of transitional period of 10 years for operating aid to loss-making airports foreseen by the Aviation Guidelines17.

(95) In case Sweden decides to prolong the entrustment, the Commission will reassess it taking into account also its position, at the end of transitional period, on operating aid to loss-making airports.

(96) In light of above, the Commission considers that the 10-year period of entrustment included in the entrustment act is acceptable for the assessed case and point 17 of the SGEI Framework is complied with.

3.2.4. Compliance with the Directive 2006/111/EC

(97) Point 18 of the SGEI Framework requires that the undertaking complies, where applicable, with Directive 2006/111/EC on the transparency of financial relations between Member States and public undertakings18.

(98) The Commission notes that the SGEI in question was entrusted to the company fully owned by Skelleftea Municipality that is, however, a separate legal entity with separate own accounts. In addition, the act of entrustment requires from the company to report separately activities covered by the entrustment.

(99) Nevertheless, the Commission also notes that according to Article 5 of the Directive 2006/111/EC, this Directive does not apply to companies whose

17 Part 5.1.2. of the Aviation Guidelines.
total net turnover is less than EUR 40 million over the period of the two financial years which proceed the year in which they received compensation for the provision of an SGEI.

(100) Sweden informed the Commission that Skelleftea airport has not, in any financial year, had a turnover which exceeded this threshold (e.g. in years 2013 and 2014 the company's turnover was approximately EUR 3.9 million and 4.7 million, respectively). Therefore, the Commission considers that point 18 of the SGEI Framework is not applicable in this case.

3.2.5. Compliance with Union public procurement rules

(101) Pursuant to point 19 of the SGEI Framework, aid will be considered compatible with the internal market on the basis of Article 106(2) of the Treaty only where the responsible authority, when entrusting the provision of the service to the undertaking in question, has complied or commits to comply with the applicable Union rules in the area of public procurement. This includes any requirements of transparency, equal treatment and non-discrimination resulting directly from the Treaty and, where applicable, secondary Union law.

(102) The Commission notes, that the act of entrustment in question applies to the operation of an airport. The part of the act which has the most value is the provision of services. The company's compensation for the SGEI consists mainly of the right to use the SGEI to obtain payment from third parties, mainly airlines. Only a small part of the company's compensation is made up of public grants. The act of entrustment, therefore, constitutes a service concession which is not covered by either the Classic Directive \textsuperscript{19} or the Utilities Directive \textsuperscript{20}.

(103) The awarding of public service concessions to a third party is currently only covered by the TFEU principles of equal treatment, transparency and non-discrimination on grounds of nationality and transparency. \textsuperscript{21} \textsuperscript{22}

(104) In that regard, the Commission notes that the EU Court of Justice has, in its case-law, established a concept of in-house provision of services \textsuperscript{23}, according to which if an economic operator is controlled by public authorities and commits the major part of its activities towards these controlling authorities, it is considered to be an in-house entity in relation to these authorities.


\textsuperscript{21} For example, case C-458/03 Parking Brixen

\textsuperscript{22} This will change as of 18 April 2016 when the Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts must be transposed by the Member States.

\textsuperscript{23} For example, case C-107/98, Teckal Srl v Comune di Viano and Azienda Gas-Acqua Consorziale (AGAC) di Reggio Emilia.
According to the Court, such a relation falls outside the scope of the EU Public Procurement Rules.

(105) For the entrustment being assessed, the Commission notes, based on the available information, that Skelleftea Municipality fully owns and controls Skelleftea airport and the airport activity is its sole economic activity. Therefore, the Commission considers that the concept of in-house provision of services applies in this case and the entrustment in question is not covered by the EU rules on public procurement.

(106) Therefore, the Commission considers that the public procurement rules, referred to in the SGEI Framework, are not applicable in this case.

3.2.6. Absence of discrimination

(107) Point 20 of the SGEI Framework requires that where an authority assigns the provision of the same SGEI to several undertakings, the compensation should be calculated on the basis of the same method in respect of each undertaking.

(108) The Commission notes that since the airport's overall management was entrusted to one undertaking, the point 20 of the SGEI Framework is not applicable in this case.

3.2.7. Amount of compensation

(109) Pursuant to points 21 and 22 of the SGEI Framework, "the amount of compensation must not exceed what is necessary to cover the net cost of discharging the public service obligations, including a reasonable profit", "the amount of compensation can be established on the basis of either the expected costs and revenues, or the costs actually incurred, or a combination of the two (...)".

(110) The entrustment of an SGEI to Skelleftea airport stipulates that the compensation, to be paid annually, shall be equal to the operating loss of the company in the given year.

(111) Pursuant to point 24 of the SGEI Framework the net cost of discharging the public service obligations should be calculated using the net avoided cost methodology. In point 27 of the SGEI Framework, the Commission allows to apply alternative methods for calculating the net cost necessary to discharge the public service obligation in cases where the use of the net avoided cost methodology is not feasible or appropriate.

(112) The net avoided cost methodology requires the establishment of the company's costs and revenues in a hypothetical scenario in which there is no SGEI. Sweden informed that in Skelleftea airport's case, all services not covered by the act of entrustment (e.g. car parking at the airport) are dependent on the existence of the SGEI. Therefore, no relevant hypothetical scenario can be established.

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24 In this context, net cost means net cost as determined in point 25 of the SGEI Framework or costs minus revenues where the net avoided cost methodology cannot be applied.

25 Net avoided cost methodology is summarized in points 25 – 26 of the SGEI Framework.
applied in which only the other activities are conducted, which means that the net avoided cost method cannot be used.

(113) Therefore, the act of entrustment obliges Skelleftea airport to report its net cost for the public service obligation using the cost allocation methodology – an alternative methodology, defined in points 28 – 31 of the SGEI Framework.

(114) Sweden informed that the compensation to Skelleftea airport's operator consists of two elements:

- Firstly, Skelleftea airport receives a fixed annual compensation. The sum corresponds to a grant of State funds within the framework of Vasterbotten Region's regional traffic plan, which aims to reduce the strain on local and regional budgets caused by the necessary support to the airport. The amount corresponds to only part of Skelleftea airport's annual deficit for the performance of the SGEI covered by the act of entrustment;

- Secondly, Skelleftea airport receives compensation which is established retroactively in accordance with the principles and conditions set out in the act of entrustment.

(115) The Commission notes that a proper application of the cost allocation methodology, based on costs actually incurred reduce the possibility of overcompensation.

(116) Sweden informed the Commission that Skelleftea airport is a municipal company covered by the ban on for-profit business activity. This means that the company may engage in business activity which is essentially concerned with providing communal amenities or services for the members of the municipality. The activities may not be conducted on a for-profit basis, however. Therefore, the Commission considers that guidelines on the calculation of reasonable profit included in the SGEI Framework are not applicable in this case.

(117) Point 39 of the SGEI Framework stipulates that Member States in devising the method of compensation must introduce incentives for the efficient provision of an SGEI of a high standard, unless the Member State can duly justify that it is not feasible or appropriate to do so.

(118) In this regard, the act of entrustment requires from Skelleftea airport to provide annually key figures for the efficiency of the operation compared to comparable in size airports in Sweden which, at a minimum, cover the airports' annual average number of employees, total operating costs, number of passengers and aircraft movements. If Skelleftea airport reports less positive developments during the year than the comparison airports, an acceptable explanation for this must be submitted, as well as information on what measures will be undertaken to boost efficiency. If the airport's operator does

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26 Points 33 – 38 of the SGEI Framework.
not supply an acceptable explanation, the compensation may not exceed the net cost which the company would have incurred if its productivity development for the relevant key figure had been equivalent to that of the comparison airports.

Moreover, Sweden informed that the efficiency is being achieved through, \textit{inter alia}, the "Basic Airport" concept (described in recital (57)). In addition, the efficiency and a high standard of services are to be ensured via the company's board to which Skelleftea appoints members.

Taking above, the Commission considers that the method of compensation, applied to the entrustment of an SGEI to Skelleftea airport, fulfils the requirements of the SGEI Framework.

3.2.8. Transparency

Pursuant to point 60 of the SGEI Framework, the Member State concerns must publish on the internet or by other appropriate means information on: the results of the public consultation or other appropriate instruments referred to in point 14 of the SGEI Framework, the content and duration of the public service obligations, the undertaking and the territory concerned, the amounts of aid granted to the undertaking on a yearly basis.

Sweden provided to the Commission a report on socio-economic cost estimate for Skelleftea airport, prepared in 2012 by IUC Sweden AB.

Sweden also informed that Skelleftea airport carries out annual studies of travel needs in the region. The studies take place via questionnaires at the airport, or in Skelleftea. Subjects of the questions include whether the airport's range of routes meets the respondents' travel needs, and whether the airport is satisfactory in terms of accessibility and services. The conclusions form the basis of the airport's development work, including that of establishing routes.

The result of a study carried out in the autumn of 2013, i.e. a year before the adoption of the act of entrustment showed that there was a clear and real need of Skelleftea airport. Studies/consultations over time also point to a great need of further domestic and regular services to a number of northern European aviation hubs, such as Copenhagen and London, and of further charter routes. The conclusions of the annual consultations with the general public will be published on the airport's website. Sweden also committed to publish on the Internet, all other information referred to in point 60 of the SGEI Framework.

Moreover, Sweden informed that the public has access to all relevant information via the principle of public access to documents which is laid down in the Swedish constitution. Minutes, decisions, annual accounts, etc. of Skelleftea Municipality, Vasterbotten Region, Skelleftea Stadshus AB and Skelleftea airport are all covered by this principle, and are, without delay, released on request. It is not a condition for the release of information that the person requesting it has any particular status or any reasons for the request.
Therefore, the Commission considers that the transparency requirements of the SGEI Framework are met.

3.2.9. Conclusions on the compatibility of aid

The Commission regrets that the entrustment to Skelleftea airport of a Service of General Economic Interest by Skelleftea Municipality was put in place as of 16 December 2013, i.e. before notifying the measure to the Commission. However, the Commission acknowledges that the entrustment of an SGEI concerning the airport's overall management, which is aimed at maintaining regional connectivity of a peripheral region, is justified.

Based on the foregoing considerations, the Commission considers that the entrustment to Skelleftea airport of an SGEI by Skelleftea Municipality fulfils the conditions laid down in the SGEI Framework and is compatible with Article 106(2) TFEU.

4. CONCLUSION

The Commission regrets that Sweden put the aid in question into effect, in breach of Article 108(3) of the Treaty on the Functioning of the European Union.

However, it has decided, on the basis of the foregoing assessment, not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 106(2) 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.

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Yours faithfully
For the Commission
Margrethe VESTAGER
Member of the Commission