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<p>In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 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, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...]</p>		<p style="text-align: center;">PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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**Subject: State Aid SA.57410 (2020/N) – Finland
COVID-19: Recapitalisation of Finnair**

Excellency,

1. PROCEDURE

- (1) On 19 May 2020, the State of Finland (“Finland”) pre-notified to the Commission its participation in the recapitalisation (“the measure”) of Finnair Plc (“Finnair”), a Finnish publicly-traded¹ network airline company. By electronic notification of 3 June 2020, Finland notified the measure to the Commission under Article 107(3)(b) of the Treaty on the Functioning of the European Union (“TFEU”).
- (2) By letter dated 3 June 2020, Finland exceptionally agreed to waive its rights deriving from Article 342 of the TFEU, in conjunction with Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

¹ The group's parent company is listed on the Nasdaq Helsinki Stock Exchange, and is domiciled in Helsinki with its headquarters in Vantaa on the grounds of Helsinki Airport.

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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2. DESCRIPTION OF THE MEASURE

- (3) According to Finland, the measure aims at restoring the balance sheet position and liquidity of Finnair in the exceptional situation caused by the COVID-19 pandemic.
- (4) The measure is justified by the worsening of Finnair's debt/equity ratio resulting from the losses made by Finnair after the COVID-19 outbreak. As a consequence, Finnair may breach a gearing covenant³ that it contracted with a private investor and be exposed to an immediate repayment of a revolving facility and outstanding bonds of more than EUR [...] by 30 June 2020. The current COVID-19 circumstances severely affect the equity of Finnair, that could, according to the Finnish authorities, fall below EUR [...] by [...] without the measure. Such a fall would lead to a high pressure on its liquidity needs and its solvency on the short-term, and would further impede the ability of Finnair to raise funds.
- (5) Finland considers that a rights issue is thus necessary as it would enable Finnair to secure proper solvency and liquidity buffers.
- (6) The measure follows the grant of a State guarantee to Finnair ("the State guarantee") that the Commission approved in its decision of 18 May 2020⁴ ("the State guarantee decision") as compatible with the internal market under section 3.2 of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak⁵ (the "Temporary Framework"). The State guarantee covers 90% of a EUR 600 million loan granted to Finnair to support its liquidity needs.

2.1. The nature and form of aid

- (7) The measure takes the form of a recapitalisation (rights issue) for an amount that, depending on the final terms of the rights issue, will fall in the range of EUR [499-512] million. The new shares will be offered to all shareholders of Finnair on the *pro rata* basis of their existing shares in its capital.
- (8) As the largest shareholder of Finnair (55.81% of the shares and votes⁶), Finland will receive subscription rights that will entitle it to subscribe to new ordinary

³ According to Finnair, although it has already [...] are subject to execution of the capital increase.

⁴ Decision of the Commission of 18 May 2020 SA.56809, COVID-19: State loan guarantee for Finnair, not yet published at the time of the present decision.

⁵ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1 and by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3.

⁶ The main shareholders' structure of Finnair is divided as follow: 55.81% owned by Finland, 17.4% by private undertakings, 11.5% by households, 9.2% by financial and insurance corporations and 5.9% by public undertakings. The public undertakings are comprised of three public pension funds and one

shares in Finnair on a *pro rata* basis. In addition to the national authorities, the city of Turku owns 0,04% of shares in Finnair, in total increasing the share of Finnair owned by the public authorities to 55,85%.

- (9) Under Finnish law⁷, Finland must hold more than half of Finnair's shares, unless the Parliament of Finland gives its authorisation to relinquish Finland's majority shareholding in Finnair.

2.2. Legal basis

- (10) The participation of the Member State in the recapitalisation is based on the Limited Liability Companies Act (624/2006) and the State Shareholdings and Ownership Steering Act (1368/2007). On 20 May 2020, the Finnish government plenary session authorized the Prime Minister's Office to participate in the rights offering, and its budget was approved by the Parliament of Finland on 25 May 2020⁸.

2.3. Administration of the measure

- (11) The granting authority is the Government of Finland. The Ministry of Economic Affairs and Employment together with the Prime Minister's Office will be the authorities administering the measure.

2.4. Budget and duration of the measure

- (12) On the basis of an estimation reported by the Finnish authorities, the capital injection of the State would amount to EUR 286 061 704, corresponding to the *pro rata* offer of new shares to which Finland will be entitled to subscribe. The final terms of the rights issue may slightly differ from that estimate. The capital injection will in any event be within a range of EUR [279-287] million⁹.
- (13) On 25 May 2020, following the announcement of the contemplated rights issue by Finnair on 29 April 2020, the Parliament of Finland approved a budget for the Prime Minister's Office containing up to EUR 700 million proposed for share acquisitions in Finnair. Finland explained that due to extreme uncertainty caused by the COVID-19 outbreak for the airline industry, the Member State decided to prepare for all possible negative scenarios. The funds may also be used to increase the capital of other State majority-owned companies and State-associated companies. The budget approved by the Parliament came into force on 27 May 2020.

university: Keva (4.05% of the shares), VER (1.57%), the pension fund of the National Broadcasting Company (0.14%) and the University of Lapland (0.12%).

⁷ State Shareholdings and Ownership Steering Act (1368/2007), section 3 paragraph 1.

⁸ https://www.eduskunta.fi/FI/vaski/Poytakirja/Documents/PTK_78+2020.pdf

⁹ That amount refers to the capital injection by Finland alone and does not include potential capital injections by other public shareholders.

- (14) The Board of Directors of Finnair approved the rights issue on 29 May 2020. It will be launched immediately after the approval of the measure by the Commission¹⁰. The recapitalisation should take effect by early July 2020, at the latest.

2.5. Beneficiary

- (15) The beneficiary of the measure is Finnair Plc, the largest airline of Finland with its hub at Helsinki (HEL) airport. By the end of 2019, the beneficiary had 6,788 employees and operated traffic to 132 destinations.
- (16) Finnair was not already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)¹¹ on 31 December 2019.
- (17) In the State guarantee decision¹², the Commission acknowledged the major contribution of Finnair to the Finnish economy. Finland demonstrated that Finnair ensures essential domestic and international air services within, to and from Finland that are essential to the national economy and that other competitors cannot replicate to the same extent, if at all. In addition, Finnair is an important undertaking on which many suppliers rely and that employs a large number of workers.

2.6. Basic elements of the measure

2.6.1. Organisation of the envisaged rights issue

- (18) The measure involves a rights offering to use the funds raised to strengthen the balance sheet and liquidity of Finnair. The losses caused by the COVID-19 outbreak have had a substantial effect on Finnair’s revenue and have decreased its equity.
- (19) The gross size of the offering is planned to be EUR [499-512] million.
- (20) The offering will be made to all existing shareholders on a *pro rata* basis and including pre-emptive subscription rights. All shareholders of Finnair registered in its shareholders’ register on the record date of the offering will receive subscription rights that entitle their holder to subscribe for new ordinary shares in Finnair on a *pro rata* basis. Finland will subscribe for new shares under the same terms and conditions as those of the existing and new private shareholders and other investors (which will represent, according to the Finnish authorities, no less than 30% of the subscribed new shares).

¹⁰ After the publication of the rights issue prospectus, the subscription rights will be traded on Nasdaq Helsinki. The subscription period for the rights issue will be opened for approximately two weeks.

¹¹ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

¹² See recitals 45 to 52 of the State guarantee decision.

- (21) According to Finnish authorities, the rights issue is estimated to be in the ratio of 10 for 1, and the new shares be offered at a discount of at least 20% below the average price of the shares of Finnair in the 15 days preceding the request for recapitalisation¹³. The subscription price in the rights offering will be calculated in relation to the share's theoretical ex-rights price ("TERP"), and it will be at least 20% below TERP.
- (22) Both holders of subscription rights (who will have a right to allocation before investors who do not hold subscription rights) and investors who do not hold subscription rights may submit orders to subscribe for any shares not subscribed for, pursuant to the exercise of subscription rights allotted to the existing shareholders. The subscription rights will be listed for trading on Nasdaq Helsinki¹⁴, as required by the stock exchange in connection with rights offerings.
- (23) Finland will subscribe only for a *pro rata* portion of the new shares corresponding to its proportion of the shareholding before the rights offering. A number of arranger banks will underwrite in full the portion of the rights offering not covered by the State's subscription undertaking. The banks' underwriting obligation will be irrevocable and without regard to Finnair's share price performance during the execution period, but it will be subject to the continued fulfilment of certain customary conditions¹⁵. Only if not all shares were subscribed would the banks be obligated to subscribe for that unsubscribed portion of the offered shares pursuant to the terms and conditions of their underwriting commitment. Consequently, the State's relative shareholding in Finnair would not change due to the offering¹⁶.
- (24) Existing shares currently owned by private shareholders (*ex-ante* private shares) will be diluted below 5% of the total *ex-post* shares of Finnair after the capital increase.

¹³ On 3 June 2020, shares of Finnair were trading at EUR 3.92.

¹⁴ See footnote 10.

¹⁵ Following the signing of the Underwriting Agreement and the launch of the offering, the underwriting banks' obligation to subscribe for any potential shares that shareholders or other investors would not subscribe for would be conditional upon, among other things: (i) representation and warranties given by the issuer in the Underwriting Agreement continuing to be true and accurate; (ii) there not having occurred a material adverse change (as would be defined in the Underwriting Agreement); (iii) that the offer is generally conducted in compliance with applicable laws, stock exchange rules, settlement procedures and other such provisions; (iv) the delivery of various legal opinions, comfort letters and officer certificates regarding the prospectus and other offering documentation; and (v) the subscription by the largest shareholder having been made. Exact terms and conditions of the Underwriting Agreement will be agreed upon between Finnair and the underwriting banks before the launch of the rights issue.

¹⁶ Due to the technical organisation inherent to the rights issue, the shareholdings of Finland will slightly vary from 55.81 to 55.90%.

2.6.2. *Additional conditions imposed on the beneficiary*

- (25) Finnair will be subject to an acquisition ban for a period of three years from the date of the capital increase. That ban prevents Finnair from acquiring a stake of more than 10% in competitors or other operators in the same line of business, including upstream and downstream operations. In exceptional circumstances, and without prejudice to the merger control rules, the Commission may authorize an acquisition, only if it is necessary to maintain Finnair's viability.
- (26) Finnair will introduce a cap on management remuneration. For a period of three years from the capital increase, the remuneration of each member of Finnair's management will not go beyond the fixed part of his/her remuneration on 31 December 2019. For persons becoming members of the management on or after the rights issue, the applicable limit of the remuneration for such new member will be benchmarked to the remuneration of comparable managerial positions and areas of responsibility in Finnair applied on 31 December 2019. Finnair will not pay bonuses and other variable or comparable remuneration elements during the three fiscal years 2020, 2021, 2022.¹⁷

2.7. **Cumulation**

- (27) The Finnish authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹⁸ or the GBER¹⁹ provided the provisions and cumulation rules of those Regulations are respected.
- (28) The Finnish authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under the Temporary Framework provided the provisions in the specific sections thereof are respected.

2.8. **Monitoring and reporting**

- (29) The Finnish authorities confirm that they will apply the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on the recapitalisation granted to Finnair on the comprehensive State aid website or Commission's IT tool within three months from the moment of granting²⁰).

¹⁷ The fiscal year for Finnair runs from 1 January to 31 December.

¹⁸ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p.1), and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

¹⁹ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1. The nominal value of the recapitalisation will be included.

²⁰ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 of 17 June 2014.

- (30) Finland also confirmed that the beneficiary will, within 12 months from the date of the rights issue and thereafter periodically every 12 months, for a period of three years, publish information on the use of the aid received. In particular, this should include information on how Finnair's use of the aid received supports its activities in line with Union objectives and national obligations linked to the green and digital transformation, including the Union objective of climate neutrality by 2050.
- (31) Finland confirmed that it will report to the Commission, in detail, the final terms of the rights offering one week after its execution at the latest.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (32) By notifying the measure before putting it into effect, the Finnish authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (33) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

3.2.1. Existence of an advantage

- (34) In order to determine whether a State measure has the effect of conferring an undue advantage to its beneficiary, it is necessary to establish whether the recipient undertaking receives an economic advantage which it would not have obtained under normal market conditions.
- (35) According to case-law, when it examines whether a transaction is in line with normal market conditions the Commission must always examine all the relevant features of the transaction at issue and its context²¹.
- (36) Where there are several consecutive measures of State intervention, the Commission must examine whether those interventions are so closely linked that they are inseparable from one another and that therefore those interventions must, for the purposes of Article 107(1) TFEU, be regarded as a single intervention²².
- (37) As noted in recital (6), the measure follows a State guarantee granted by the Finnish authorities to Finnair to cover 90% of a EUR 600 million loan. By

²¹ Judgment of 13 September 2010, *Greece v Commission*, Joined Cases T-415/05, T-416/05 and T-423/05, EU:T:2010:386, paragraph 172 and the case-law cited.

²² Judgment of 15 January 2015, *France v Commission*, Case T-1/12, EU:T:2015:17, paragraph 33.

decision of 18 May 2020, the Commission has declared the State guarantee compatible under section 3.2 of the Temporary Framework.

- (38) In accordance with the case law, the Commission must therefore analyse whether the State guarantee and the rights issue must be regarded as a single intervention for the purpose of assessing the existing of an advantage, or whether the rights issue has to be assessed individually.

3.2.1.1. Existence of a link between the recapitalisation and the State guarantee

- (39) Whether several consecutive measures of State intervention are inseparable must be examined in the light of the criteria laid down by case-law, including, *inter alia*, the chronology of those interventions, their purpose and the circumstances of the beneficiary undertaking at the time of those interventions²³.
- (40) As regards the chronology of the successive interventions, the Commission observes that it approved the State guarantee on 18 May 2020²⁴, while the recapitalisation will be effective by early July 2020 at the latest. Secondly, the Commission observes that at the time of the first intervention, Finland already envisaged the recapitalisation, as Finnair announced publicly the organisation of a rights issue on 29 April 2020 and Finland adopted on 5 May 2020 a budget of EUR 700 million primarily allocated to the potential recapitalisation of Finnair. Thirdly, while the need for each measure may have arisen at different moments in time²⁵, they were both envisaged in reaction to the COVID-19 outbreak and no other unforeseen or unrelated event occurred between the respective times of the two interventions.
- (41) Concerning the objectives of the two measures, the Commission observes that they share a common objective, namely to keep the beneficiary afloat throughout the COVID-19 outbreak and the consequent economic turmoil. As stated in the State guarantee decision²⁶, the State guarantee aimed to preserve the continuity of Finnair's economic activity during and after the outbreak by providing it with sufficient liquidity. The rights issue at stake is intended to strengthen the equity of Finnair in order to be able to raise sufficient liquidity. The Finnish authorities have explained that should the rights issue not take place, the pressure on Finnair's liquidity would be very severe.

²³ Judgment of 15 January 2015, *France v Commission*, Case T-1/12, EU:T:2015:17, paragraph 34 and judgment of 15 September 1998, *BP Chemicals v Commission*, Case T-11/95, EU:T:1998:199, paragraphs 170 to 178.

²⁴ At the date of adoption of the present decision, Finnair has not drawn the State guarantee, but it expects to draw EUR 200 million of the guaranteed pension premium loan within June 2020.

²⁵ According to the Finnish authorities, the need of Finnair for the State guarantee arose mid-March 2020 while the need for a rights issue arose at the end of April of the same year.

²⁶ See recital 3 of the State guarantee decision.

- (42) In that regard, the rights issue will have two main results for Finnair. First, it will increase the equity of the company and therefore improve financial ratios such as the gearing (debt-to-equity ratio). Second, it will inject fresh cash in Finnair. That capital increase, it is submitted by the Finnish authorities, is needed not only to increase equity but also to maintain a minimum cash position. The cash raised via the capital increase could not have been raised via other means, so that the rights issue has an inseparable liquidity purpose that, given Finnair's situation, is necessary. In addition, the fact that the capital increase will improve Finnair's capital structure and related financial ratios will allow Finnair to access capital markets to fund its liquidity needs far more easily than without the capital increase.
- (43) In addition, it is clear from the State guarantee decision that the State guarantee was at that time necessary partly because of the uncertain success of the now notified rights issue²⁷. Moreover, the State guarantee and the rights issue were not envisaged before the COVID-19 crisis; on the contrary, Finnair and the Finnish authorities present both interventions as a response to the economic turmoil faced by Finnair as a result of the COVID-19 outbreak²⁸.
- (44) When it comes to the economic circumstances of the beneficiary at the time of those interventions, the information provided by the Finnish authorities shows that those circumstances did not change to a considerable extent between the granting of the State guarantee and the notification of the rights issue. Finnair, like a number of other airlines, has been hit by the COVID-19 outbreak and at the time of each intervention, Finnair was and is still at risk of default, in the short-term, due to a potential liquidity shortage. Hence, Finnair's financial difficulties existed both when it received the State guarantee and when the Finnish authorities notified the rights issue.
- (45) In view of the above elements, the Commission concludes that the State guarantee and the recapitalisation are so closely linked that they must be regarded as a single intervention (the 'overall transaction') for the application of the private investor test under Article 107(1) of the TFEU.

3.2.1.2. Applicability and application of the private investor test

- (46) In order to determine whether an intervention by the State constitutes State aid, it is necessary to assess whether, in similar circumstances, a private investor operating in normal conditions of a market economy could have been prompted to grant a guarantee on a loan and participate in the measure that is the object of the

²⁷ See recital 43 of the State guarantee decision.

²⁸ Finland explained for example in one of the documents submitted to the Commission that "*the loan [guarantee] was for the purpose of ensuring the liquidity of [Finnair] due to very short term losses due to the Covid-19 pandemic, whereas the rights offering is for the purpose of strengthening [Finnair]'s weakened solvency and reducing gearing levels due to the longer term losses now being realized since the crisis turning out to be deeper and longer than expected at the time when the very short term liquidity issue had to be resolved*". See also Finnair's interim annual report dated 29 April 2020 (p. 2): https://investors.finnair.com/~/_/media/Files/F/Finnair-IR/documents/en/reports-and-presentation/2020/q1-2020-report-en.pdf.

present decision. In this case, the relevant question is whether a private investor would have entered into the overall transaction in question, and if so, on the same terms and conditions as Finland.

- (47) Prior to examining the application of the private investor test, it is necessary to ascertain if that test is applicable in the present case. The applicability of the private investor test ultimately depends on the Member State concerned having conferred, in its capacity as shareholder and not in its capacity as public authority, an economic advantage on an undertaking belonging to it. It follows that, if a Member State relies on that test during the administrative procedure, the Commission must, where there is doubt, establish unequivocally and on the basis of objective and verifiable evidence that the measure implemented falls to be ascribed to the State acting as shareholder.
- (48) In that regard, the Member State must produce evidence showing that the decision is based on economic evaluations comparable to those which, in the circumstances, a rational private investor in a situation as close as possible to that of the Member State would have had carried out, before making the investment, in order to determine its future profitability²⁹.
- (49) The Commission observes firstly that the Finnish authorities did not provide any economic assessment on the desirability for the State to grant both a State guarantee and a capital injection to Finnair. Finland provided only market analysis and business plans on the economic rationality of carrying out the capital injection alone, without taking into account the grant of the State guarantee on a EUR 600 million loan to Finnair.
- (50) In addition, although Finland intends primarily to subscribe new shares on a *pro rata* basis in the rights issue, the Finnish authorities also provided alternative scenarios where, in the absence of participation by private investors, the State would participate to a greater extent in the rights issue³⁰. Finland has not supported the economic rationality of those alternative scenarios by any economic analysis. The Commission also takes into account the budget of EUR 700 million approved by the Parliament primarily aimed at the recapitalisation of Finnair, to anticipate a situation where the State would invest more than expected. Those factors rather show that Finland was guided by the objective of saving Finnair, than by purely economic considerations on which a private market operator would base itself in its decision of whether or not to grant a guarantee coupled with a capital injection to a company.
- (51) As for the State guarantee, it is apparent from the Commission decision of 18 May 2020 that at the relevant moment in time there was no private operator

²⁹ Judgment of 5 June 2012, *Commission v EDF*, Case C-124/10 P, EU:C:2012:318, paragraphs 82 and 84.

³⁰ Finland confirmed that should market conditions deteriorate and the price of Finnair's shares fall, Finland may not only subscribe to the rights on its *pro rata* shares, but fully underwrite all the remaining unsubscribed shares. Finland provided six other scenarios where the State would bring a larger contribution.

willing to grant a guarantee covering 90% of a EUR 600 million loan to Finnair at terms offered by Finland. In addition, the Finnish authorities have confirmed that the success of the rights offering would be put at risk if the State guarantee were not present in the company³¹. Finland confirmed that Finnair was not able to cancel the guarantee prior to the rights issue, as the company would not have obtained a clean working capital statement from the auditors, which is required to launch a rights issue, and Finnair would therefore have had serious difficulties executing the rights issue.

- (52) Having regard to the context of the COVID-19 outbreak that has particularly affected the aviation sector, the absence of any economic assessment of the profitability of the overall transaction shows that Finland acted as a public authority rather than a private investor. In those circumstances, the market economy operator test is not applicable. By participating in the rights offering as a public authority rather than as a market operator, Finland confers an advantage on Finnair.
- (53) In any event, even if the market economy operator test were applicable, the information provided by Finland shows that the overall transaction was not conducted at market terms. Firstly, the process followed for the right issue will lead to a price above the market price, because it is influenced by the granting of a guarantee to Finnair and more generally the support of the State to the company, which has been clearly announced. Secondly, even if the process followed for the right issue was considered as a reasonable proxy for the establishment of a market price (because conducted at the same terms for private and public investors), which is not the case, it remains the case that the State guarantee was granted clearly below the market rates, so that the overall return of the transaction was inferior to what a prudent private investor could have expected.
- (54) Therefore, Finland did not conclude the overall transaction under the same terms and conditions as a prudent private investor would have done, and this overall transaction must be regarded as conferring an advantage on Finnair.

3.2.2. *Other conditions under Article 107(1) TFEU*

- (55) The measure is imputable to the State, since it is administered by the national Government³². It is financed through State resources, since it is financed by the State budget.

³¹ Finland confirmed in an email dated of 7 June 2020 that Finnair was not able to cancel the guarantee prior to the rights issue, as the company would not have obtained a clean working capital statement from the auditors, which is required to launch a rights issue, and Finnair would therefore have had serious difficulties executing the rights issue. In addition, Finland explained that many of Finnair's lenders and suppliers are expecting access to the pension fund premium loan facility, as well as the successful execution of the rights issue, to maintain the current credit terms. Should they decide to demand cash up front for their services, Finnair would experience significant deterioration in its cash position, which would further complicate a going concern opinion for the Q2 audit.

³² With regard to the participation of public undertakings in the rights issue, the Commission considers that it is unlikely that the decisions of those public undertakings be imputable to the State. In particular, the public undertakings were not associated to the State in the provision of the State

- (56) The advantage granted by the measure is selective, since it is granted only to one undertaking.
- (57) The measure is liable to distort competition, since it strengthens the competitive position of Finnair in a sector in which intra-Union trade is important, thus also affecting trade between Member States.
- (58) As regards the State guarantee, the Commission concluded in its State guarantee decision that (i) it was imputable to the State and financed through State resources, (ii) it was selective in favour of one undertaking and (iii) was liable to distort competition and affect trade between Member States³³.

3.2.3. Conclusion

- (59) In view of the above, the Commission concludes that the overall transaction constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (60) Since the overall transaction involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that overall transaction is compatible with the internal market.
- (61) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (62) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that “*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b)*”.

guarantee, and therefore have a significant different exposure as the national authorities. In addition, the underwriting bank consulted the largest public undertakings, as it did with several private shareholders, to test their interest in participating in the rights offering. Those largest public undertaking provided responses similar to private shareholders, showing a potential interest to participate pro rata to their shares, but indicating that they would not give any formal irrevocable commitment. Their response and attitude was thus radically different from the national authorities, which have proactively engaged in the recapitalisation process. Finally, the public pension funds Keva and VER (together 96% of the public undertakings’ shareholding in Finnair) are subject by law to ensure the security, profitability and liquidity of their investments (Act on KEVA (66/2016 as amended, in Finnish: laki Kevasta) - Section 21; VER: Act on the State Pension Fund (1297/2006 as amended, in Finnish: laki valtion eläkerahastosta) - Section 7).

The Commission considers in any case that even if it were to qualify the participation of those public entities as State aid, it would not affect the assessment of compatibility under the Temporary Framework. The amount of aid would increase by a maximum of EUR 30 million, increasing the amount of aid by approximately 10%. However, the participation of private investors would be above 30% in any case, and the conclusions related to the compliance with the Temporary Framework would not be affected.

³³ See recitals 31 to 35 of the State guarantee decision.

TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability”.

- (63) The overall transaction aims at strengthening the equity of Finnair and its access to liquidity at a time when the normal functioning of markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (64) In the following sections, the Commission will therefore assess the compatibility of each measure forming part of the overall transaction, i.e. the State guarantee and the notified recapitalisation, and establish whether there are effects arising from the cumulated presence of the measures, and if so, whether those cumulative effects are compatible with the internal market.

3.3.1. Compatibility of the State guarantee with the internal market

- (65) The Commission recalls that Finland designed the State guarantee in line with section 3.2 of the Temporary Framework, complying with all the conditions indicated therein³⁴. The Commission declared it compatible with the internal market on 18 May 2020.
- (66) The Commission observes that the Temporary Framework states in its point 20 that *‘temporary aid measures covered by this Communication may be cumulated with one another in line with the provisions in the specific sections of this Communication’*.
- (67) Given that section 3.2 of the Temporary Framework does not provide any specific condition on a cumulation of a State guarantee with a COVID-19 recapitalisation provided in section 3.11 of the Temporary Framework, the Commission will therefore assess whether the recapitalisation complies with the conditions contained in section 3.11.

3.3.2. Compatibility of the recapitalisation with the internal market

- (68) The Temporary Framework sets out in its section 3.11 the criteria under which Member States may provide public support in the form of equity to undertakings facing financial difficulties due to the COVID-19 outbreak.

3.3.2.1. Applicability of section 3.11 of the Temporary Framework

- (69) The Commission notes that the Finnish authorities have notified the measure under Article 107(3)(b) TFEU. According to its point 16, the Temporary Framework does not prevent Member States from notifying alternative approaches to remedy a serious disturbance in their economy under Article 107(3)(b).

³⁴ See section 3.3.3 of the State guarantee decision.

- (70) Point 46 of the Temporary Framework provides that “*the following conditions shall apply to recapitalisation schemes and individual recapitalisation measures of Member States for non-financial undertakings (collectively referred to as “COVID-19 recapitalisation” measures) under this Communication, which are not covered by section 3.1 of this Communication. They apply to COVID-19 recapitalisation measures for large undertakings and SMEs*”.
- (71) The Commission observes that the measure concerns a recapitalisation in favour of an individual undertaking resulting from the COVID-19 outbreak. Hence, the measure notified by Finland can be qualified as a COVID-19 recapitalisation, and does not as such constitute an alternative approach to remedy a serious disturbance in the economy of the Member State.
- (72) In the present case, as described in recital (23), the State intends to subscribe to the new shares only on a *pro rata* basis and under the same terms and conditions as the existing private shareholders and potential other private investors and underwriting banks. As a consequence, the rights issue will not lead to any increase of the shareholding of the State in the capital structure of Finnair.
- (73) The Commission also takes into account the substantial participation of private investors in the transaction (more than 30% of private investors will subscribe new shares)³⁵ in assessing the compatibility of the notified measure. In particular, although the beneficiary benefits from State aid, the Commission considers the participation of private investors in the recapitalisation of Finnair as positive, as it reduces the amount of State aid.
- (74) As section 3.11 of the Temporary Framework envisages that the State should be incentivised to sell equity participation acquired as an aid to respond to the COVID-19 outbreak, it is unsuitable for rights issues of companies that are already partly owned by the State and in which the State and private investors subscribe on a *pro rata* basis. Moreover, in such circumstances, applying certain conditions of section 3.11 of the Temporary Framework could significantly reduce the incentive for private investors to participate in the transaction, which in turn would require an increase in the share of the recapitalisation to be subscribed by the State and, thus, ultimately to an increased amount of State aid.
- (75) The Commission will therefore assess the recapitalisation in light of section 3.11 of the Temporary Framework, however taking into account that certain parts of that section need to be adapted to take into account the participation of private investors and the situation of the State as existing shareholder that will not increase its stake in the investment target.
- (76) The Commission will apply the same approach to other comparable cases that present the same features as described in recitals (72) and (73), and it will initiate the process to modify the Temporary Framework to reflect the approach taken in the present decision.

³⁵ Underwriting banks will fully subscribe the new shares that current or new investors would not buy, ensuring a private participation of at least a minimum of 30% in the rights offering.

3.3.2.2. Eligibility and entry conditions

(77) According to point 49 of the Temporary Framework, the COVID-19 recapitalisation measure must fulfil the following conditions:

- a) without the State intervention the beneficiary would go out of business or would face serious difficulties to maintain its operations. Such difficulties may be shown by the deterioration of, in particular, the beneficiary's debt to equity ratio or similar indicators;
- b) it is in the common interest to intervene. This may relate to avoiding social hardship and market failure due to significant loss of employment, the exit of an innovative company, the exit of a systemically important company, the risk of disruption to an important service, or similar situations duly substantiated by the Member State concerned;
- c) the beneficiary is not able to find financing on the markets at affordable terms and the horizontal measures existing in the Member State concerned to cover liquidity needs are insufficient to ensure its viability; and
- d) the beneficiary is not an undertaking that was already in difficulty on 31 December 2019 (within the meaning of the General Block Exemption Regulation³⁶).

a) *Necessity of the aid*

(78) On 3 June 2020, Finnair made a written request for a capital injection, and the Finnish authorities provided the Commission with evidence of that written aid request from Finnair as part of the notification of the aid measure³⁷.

(79) Firstly, the Commission notes that the negative circumstances due to COVID-19 described in the State guarantee decision still affect Finnair³⁸.

(80) Secondly, the Finnish authorities provided the Commission with financial projections for the years 2020, 2021 and 2022. Based on those projections, the equity of Finnair might be reduced by more than [...], compared to pre-COVID-19 levels, in the coming months (cumulated losses of more than EUR [...]). That reduction of equity has a direct impact on solvency terms, and will jeopardize Finnair's access to capital markets in the short-term.

(81) Thirdly, in terms of liquidity, the capital increase will also improve the cash position of Finnair. Based on its financial projections, without the capital increase, the lack of new equity and debt financing could lead to a liquidity crisis

³⁶ As defined in Article 2(18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

³⁷ See point 50 of the Temporary Framework.

³⁸ See recitals 40-41 of the State guarantee decision.

as of [...], even considering the State guarantee. That liquidity situation is in particular worsened by the refunds paid to passengers, estimated at around EUR [...] since the beginning of the COVID-19 crisis. Without a sustainable debt-to-equity ratio (gearing), Finnair will face major difficulties in raising debt in the markets. As a result, it will face the risk of not being able to meet its payment obligations, and of having to enter into insolvency proceedings.

- (82) It follows from the above, that the measure aims at maintaining a capital structure and liquidity profile that provides confidence to partners, creditors and investors.
- (83) The Commission considers therefore that Finnair will face serious and immediate difficulties of solvency and liquidity in absence of the capital increase. Without the measure, Finnair would face serious difficulties to maintain its operations.

b) Aid to remedy a serious disturbance in the economy of Finland

- (84) In its State guarantee decision³⁹, the Commission has stated the reasons according to which it considered that Finnair plays an important role for the Finnish economy.
- (85) The Commission found that Finnair is a strong economic and innovative undertaking contributing significantly to the economic development and foreign trade of Finland and ensuring essential connectivity both within, and to and from, Finland. The bankruptcy or default of Finnair would likely cause a serious disturbance for the Finnish economy due to its major role in terms of national and international connectivity and its economic and social weight for many suppliers and workers in Finland. This would affect severely the recovery of the Finnish economy.
- (86) Therefore, the measure contributes to remedy to a serious disturbance in the economy of Finland.

c) Appropriateness of the recapitalisation

- (87) After the provision of a State guarantee, Finnair needs to replenish, at least partially, its equity losses. Without that recapitalisation, the company would have significantly worse financial ratios (e.g. debt-to-equity), making it very difficult or impossible to raise new debt or to refinance existing liabilities in the markets. Finland is the majority shareholder of Finnair, and a rights issue without the participation of the reference shareholder would raise serious doubts in the market, and would unlikely attract sufficient private investors to replace that reference shareholder. Finally, there is no other potential recapitalisation scheme available to Finnair to replace the rights issue. Therefore, the Commission considers that Finland has demonstrated there is no other means to find equity capital on the market in the short term.

d) Undertaking in difficulty

³⁹ See recitals 45 to 52 of the State guarantee decision.

- (88) Finnair is not an undertaking that was already in difficulty on 31 December 2019 (within the meaning of the General Block Exemption Regulation).

3.3.2.3. Proportionality of the recapitalisation

- (89) According to Finnair's financial projections, its losses for the coming months attributable to COVID-19 could amount to EUR [...]. Finnair reported total equity of EUR 966.4 million as of end year 2019⁴⁰, and Finnair estimated an end year 2020 total equity of EUR [...], including the capital increase, under a base case scenario ([...] under a reasonable worst-case scenario). The Commission notes that the planned capital increase (EUR [499-512] million), and particularly the Finnish State participation (around EUR [279-287] million) is [...] below the forecasted losses, meaning that the measure does not go beyond restoring the capital structure of the beneficiary to the one predating the COVID-19 outbreak⁴¹, i.e. the situation on 31 December 2019.
- (90) Additionally, according to the financial projections of Finland, the Finnish State participation in the capital increase is the minimum required to: (i) to maintain short term solvency of the company, (ii) to avoid breaching covenants in the medium term, and (iii) to ensure a reasonable minimum cash position to allow Finnair operate under normal business conditions⁴². As such, the Commission considers that the measure does not exceed the minimum needed to ensure the viability of Finnair⁴³.

3.3.2.4. Remuneration of the State

- (91) According to point 60 of the Temporary Framework, the capital injection by the State must be conducted at a price that does not exceed the average share price of the beneficiary over the 15 days preceding the request for the capital injection.
- (92) The Commission observes that the price for the new shares of the rights offering should be at a discount at least 20% below TERP. Depending on the final subscription price of the shares at the moment of the rights issue, the final discount below the average share price of the beneficiary over the 15 days preceding the request for the capital injection is estimated to be not less than 20%.

⁴⁰ See Finnair Annual Report 2019, p. 46. https://investors.finnair.com/~/_media/Files/F/Finnair-IR/documents/en/reports-and-presentation/2020/annual-report-2019.pdf

⁴¹ As an example, a reference ratio could be the net debt over equity (book value). Based on the financial projections by Finland, that reference ratio pre-COVID-19 is estimated at 1.82 whereas, after the capital increase, once Finnair takes all foreseen losses from the crisis, the ratio is estimated at [2-4].

⁴² The average cash position of Finnair in 2018 and 2019 was around 36% over previous year sales, whereas a reasonable minimum cash position per treasury policy to allow normal operations is estimated at [10-20]%. The total rights issue will allow Finnair to maintain an average cash position of around [20-30]% in 2020 and 2021, although the Finnish State participation will be the minimum necessary to reach the [10-20]% threshold required.

⁴³ See point 54 of the Temporary Framework.

- (93) In order to increase the remuneration for the State, the Temporary Framework envisages a step-up mechanism in two rounds. In the case at hand, the Commission notes that the discount over the share market price is large enough to provide sufficient remuneration for the State at entry. Therefore, future step-ups are not necessary in those circumstances, in coherence with points 60, 61 and 62 of the Temporary Framework⁴⁴.
- (94) In the rights offering, the State will only subscribe to its *pro rata* share of the offering, and private investors or shareholders, including underwriting banks, will participate in the recapitalisation with the State and by no less than 30% of the offer. Finland has in that regard provided relevant economic data on the economic rationality of launching the rights issue as of beginning of June in order to attract as many private investors as possible.
- (95) The Commission thus concludes that the remuneration of the State respects the conditions set in the Temporary Framework.

3.3.2.5. Governance and undue distortion of competition

- (96) According to point 71 of the Temporary Framework, the beneficiary of a COVID-19 recapitalisation should not engage in aggressive commercial expansion. The business plan of Finnair shows that the company is preparing a prudent and progressive return to its standard volume of activity. In addition, Finnair will respect the conditions referred to in section 3.11.6 of the Temporary Framework (Governance and prevention of undue distortions of competition), either directly or with variations justified by the nature of the intervention in light of the elements set out in recitals (72) and (73).
- (97) According to point 72 of the Temporary Framework, if the beneficiary of a COVID-19 recapitalisation measure above EUR 250 million is an undertaking with significant market power on at least one of the relevant markets in which it operates, Member States must propose additional measures to preserve effective competition in those markets.
- (98) The Commission considers that the markets relevant for the purposes of assessing the effects of the measure on competition are the markets for the provision of passenger air transport services to and from an airport. Indeed, the measure aims at preserving the overall ability of the beneficiary to operate air transport services, notably ensuring the preservation of its assets and its rights to operate in the medium/long term. Those assets and rights (most notably slots at coordinated airports, which are considered as highly valuable) can be used on any routes to and from an airport.

⁴⁴ Points 61 and 62 of the Temporary Framework refer to mechanisms to increase the remuneration of the State in order to incentivise the beneficiary to buy back the State capital injections. In the situation of Finnair, where the State will not increase its previous pre-COVID-19 shareholding and the State also does not envisage a future shareholding reduction, the incentive to buy-back the State participation by Finnair can be replaced by a higher level of dilution of existing shareholders.

- (99) Therefore, if the measure has an impact on competition, it will equally affect competition on all routes originating and arriving at an airport at which the beneficiary holds slots, regardless of the specific competitive position of the beneficiary on any of those routes. It is thus not appropriate to analyse the impact of the measure on each of those routes separately. Instead, for the purposes of the compatibility assessment, it is appropriate to define the relevant markets as the airports at which the beneficiary supplies passenger air transport services. The beneficiary's power on such a relevant market will be assessed *inter alia* on the basis of the level of congestion of the airport and the beneficiary's share of airport infrastructure capacity that it has the permission to use for its operations (i.e. share of slots)⁴⁵.
- (100) Finnair operates mainly to/from Finnish airports. The main Finnish airport is Helsinki airport (HEL). All other Finnish airports, had less than 1.1 million passengers in 2019. HEL is also Finnair's hub and main operating base. Finnair's slot holding at HEL, defined as the ratio between the number of slots held by Finnair at HEL and the total available slots at HEL (i.e. the airport capacity), is relatively low (less than 25% in 2019). In addition, there is no congestion at HEL, even at peak hours, with slots available for new companies available at all periods of the day.
- (101) The Commission acknowledges that based on 2019 passenger figures, according to Finavia, Finnair's carried 68.4% of all passengers carried to/from HEL. As already noted however, there are still a significant number of slots available at HEL, as only approximately one-third of the slots are taken and there is room for all airlines to obtain the slots they require. This confirms that it is thus possible to accommodate new entry or expansion of competitors at HEL. Therefore, the Commission concludes that Finnair has no significant market power (in terms of its slot position) at HEL. Other Finnish airports are not coordinated and much smaller, and the Commission concludes that Finnair has no significant market power at those airports.
- (102) In view of the above and taking into account that (i) the participation of private investors to the rights issue brings the remuneration of the State closer to market terms, and (ii) Finnair has no significant market power at any of the airports at which it operates, the Commission considers that the conditions under which Finland would be required to propose additional measures pursuant to point 72 of the Temporary Framework are not fulfilled.
- (103) In addition, the Commission notes that Finnair will not advertise the State aid for commercial purposes⁴⁶.
- (104) Point 74 of the Temporary Framework states that as long as at least 75% of the COVID-19 recapitalisation measures have not been redeemed, beneficiaries other than SMEs may not acquire a more than 10% stake in competitors or other

⁴⁵ See examples by analogy: Case M.8633 – Lufthansa/Certain Air Berlin assets; Case M.8672 – easyJet/Certain Air Berlin assets.

⁴⁶ See point 73 of the Temporary Framework.

operators in the same line of business, including upstream and downstream operations. Such a condition aims at incentivising private shareholders and investors to buy the shares acquired by the State in private companies aided during the COVID-19 crisis. It is, however, not designed for situations where the State is an historic shareholder.

- (105) As pointed out in recital (23), the State is an existing shareholder in Finnair, and will not increase its shareholding level in the company, so that an acquisition ban should not be imposed under conditions identical to those set out in point 74 of the Temporary Framework. Finland however will impose an acquisition ban for a period of three years starting from the date of the capital injection. The Commission considers that period suitable and proportional to the need to limit any undue distortion of competition.
- (106) The same reasoning and conclusion applies to the condition contained in point 78 of the Temporary Framework concerning the cap on remuneration of the management, which the Finnish authorities will impose on Finnair as a condition for the capital injection for a period of three fiscal years.
- (107) Moreover, Finland confirmed that Finnair did not have any economic activities that were in economic difficulties already on 31 December 2019⁴⁷.
- (108) Furthermore, point 77 of the Temporary Framework reads as follow: *‘as long as the COVID-19 recapitalisation measures have not been fully redeemed, beneficiaries cannot make dividend payments, nor non-mandatory coupon payments, nor buy back shares, other than in relation to the State’*. In that regard, Finland explained that the rights offering terms, in particular the high ratio of new shares (estimated at 10:1) together with the high subscription price discount to TERP (at least 20%), imply an important dilutive effect over current existing shareholders, whose outstanding shares will be diluted by more than 90%. Total current outstanding shares (including those of the State and of private shareholders) will be diluted to less than 10% of the *ex-post* total number of shares. Taking into consideration that the Finnish State currently owns 55.81% of Finnair, current private shareholders’ outstanding shares in Finnair will be diluted to less than 5% of the *ex-post* total number of shares.
- (109) A ban on dividend payments to new private shareholders would seriously reduce the interest of private investors in participating in the recapitalisation. In addition, the severe dilution of existing private shareholders gives them an incentive to participate in the rights issue, but that incentive would be reduced if they could not expect any dividend on their new shares. Accordingly, in view of the high level of dilution of existing private shareholders, the Commission considers that it is not necessary to maintain a dividend ban.
- (110) The Commission therefore considers that the recapitalisation complies with section 3.11.6 of the Temporary Framework, because although several of its terms depart from the Temporary Framework they can be accepted for the reasons developed above.

⁴⁷ See point 76 of the Temporary Framework.

3.3.2.6. Exit strategy of the State from the participation resulting from the recapitalisation and reporting obligations

- (111) Because of the absence of an increase of the shareholding level of the State in Finnair after the rights issue, the Commission considers that an exit strategy (section 3.11.7 of the Temporary Framework) is not required under section 3.11 of the Temporary Framework in the present case.
- (112) In addition, Finland confirmed in sub-section 2.8 of the present decision that it would comply with the reporting obligations contained in section 3.11.7 of the Temporary Framework.

3.3.2.7. Section 4 of the Temporary Framework

- (113) Finland confirmed that it will apply the reporting and monitoring obligations contained in section 4 of the Temporary Framework.

3.3.2.8. Conclusion

- (114) It follows from the above elements that the recapitalisation contemplated by Finland is in line overall with sections 3.11 and 4 of the Temporary Framework, although several terms depart from the Temporary Framework, for the reasons developed above.

3.3.3. *Compatibility of the cumulated effects of the overall transaction*

- (115) The Commission notes that Finland notified successively two measures that must be regarded as a single intervention under Articles 107(1) and 107(3) TFEU. After having assessed the compatibility of each measures taken on its own, the Commission will also weigh the beneficial effects of the overall transaction against its adverse effects on trading conditions and the maintenance of undistorted competition.
- (116) The COVID-19 crisis is affecting Finnair in terms of solvency and liquidity in a circular manner. In the first place, the severe reduction of operations has led to a significant decrease of operating revenues. This creates a liquidity shortage that Finnair addressed in part by implementing the State guarantee. The accumulated losses and the continuous cash outflow in Finnair, however, are worsening its solvency and its relevant financial indicators⁴⁸, which in turn aggravates the company's ability to service its debt and meet its financial obligations such as interests and commercial payments. Because of that situation, Finnair's access to capital markets to raise additional needed liquidity is jeopardized, affecting again its solvency and creating a vicious circle in financial terms. In order to stop that circular effect and restore the capital structure of the company, Finnair is planning to launch the capital increase via a rights offering.

⁴⁸ Examples of such indicators are total equity, gearing ratio, debt-to-equity ratio or debt coverage ratios among others.

- (117) From the above, the Commission notes that the State guarantee and the recapitalisation of Finnair are two interrelated measures that are, in conjunction, necessary. Without the State guarantee, Finnair would face a liquidity shortage and would not obtain a clean working capital statement from the auditors, which is required to launch a rights issue, and the company would therefore have serious difficulties executing the capital increase. Without the recapitalisation, Finnair would not be able to resolve its insolvency threat, would hinder its access to additional funds and ultimately would further aggravate its liquidity position.
- (118) The Commission recalls that Finnair is an undertaking that plays a major role for the economy and foreign trade of Finland, so that its cessation of activity would severely affect the recovery of the Finnish economy, the connectivity within the country and the connectivity of the country with the rest of the Union. The diminution of such connectivity would have an adverse effect not only on Finland but also on the remainder of the Union⁴⁹.
- (119) The Commission notes that Finland showed the needs for the State aid, as it would ensure that Finnair sufficient access to liquidity in order for the company to maintain its activities. In addition, the overall transaction is designed in a way that mitigates to the minimum possible the need for State aid, as market investors also provide significant contribution to the financing of the overall transaction, and Finnair will only draw on the loan that benefit from the State guarantee in case of liquidity need. Moreover, Finland imposed specific competition and governance constraints to a beneficiary that does not hold a significant market power on the market on which it operates.
- (120) On the other hand, the Commission observes that the beneficiary is active on a market that is highly competitive, where the grant of an individual aid may be detrimental to other airlines that do not receive a similar aid, especially in the context of the COVID-19 outbreak that has particularly hit the aviation sector. In addition, the Commission recognises that the cumulated effects of the State guarantee and the recapitalisation provide a stronger basis for Finnair to pursue its activities, addressing the two main issues affecting the company (liquidity and capital). Without the two measures combined, the future of Finnair would have been more uncertain.
- (121) Nevertheless, in view of all the above elements the Commission concludes that the overall transaction will have positive effects for the connectivity needs within, and to and from Finland and the recovery of the Finnish economy after the COVID-19 outbreak. The cumulated effects of the overall transaction are proportional and appropriate to meet those objectives and are mitigated by the contribution of market investment to the overall transaction. Finally, the overall transaction is designed in a way that limits its negative effects on competition and trade between Member States, and such negative effects are in any event outweighed by the positive effects of the measure.

⁴⁹ See recitals 45 to 52 of the State guarantee decision.

3.3.4. Conclusion

(122) The Commission therefore considers that on the basis of the scenario currently contemplated by Finland and in particular to the conditions and terms of the planned right offering described under section 2 of the present decision, the overall transaction is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) 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)(b) 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:

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Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President