



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2013)

Opinion

Title **DG COMP – Impact Assessment on Revision of the Commission Guidelines on State Aid to airports and airlines**
(draft version of 20 November 2013)*

(A) Context

The Commission adopted in 2005 Community guidelines on financing of airports and start-up aid to airlines departing from regional airports. These guidelines specified the conditions under which certain categories of State aid to airports and airlines could be declared compatible. A majority of stakeholders in the 2011 Public consultation on the application of the 2005 Aviation Guidelines called for the Commission to proceed with a revision of the existing rules. In its Communication on State Aid Modernisation, the Commission points out that State aid policy should focus on facilitating well-designed aid targeted at market failures while avoiding a waste of public resources. State aid control in the air transport sectors should therefore promote the sound use of public resources for growth-oriented policies, while limiting competition distortions and avoiding the creation of overcapacities. This Impact Assessment explores options for a review of the existing guidelines based on case practice, stakeholders' views and the aviation sector development.

(B) Overall opinion: NEGATIVE

The report should be significantly improved in a number of important respects. First, it should strengthen the problem definition by providing more concrete evidence of the amount and type of state aid granted by Member States, demonstrating whether this resulted in overcapacity of airport infrastructure, if it contributed to regional development and its effect on competition. Also, it should explain why the ban on operating aid is not effectively enforced. Second, the report should describe how the proposed rules will be effectively enforced. In particular, it should clarify how the planned exceptions will be applied so that they do not allow for the circumvention of the general rules. The report should also clarify how the options deal with any socio-economic consequences resulting from the proposed measures. Third, the report should better analyse the impacts of all options by assessing how these will affect (i) the number of operating airports/accessibility for travellers; (ii) air transport prices; (iii) the level of air traffic and employment as well as the wider economic activity in the relevant regions.

Given the nature of these recommendations, the Board requests DG COMP to submit a revised version of the report, on which it will issue a new opinion.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

(C) Main recommendations for improvements

(1) Better substantiate the problems. The report should set out the amount and type of state aid granted in the air transport sector, differentiating between Member States and drawing upon the Commission's case enforcement experience to the maximum extent possible. It should demonstrate that the current application of the rules has resulted in overcapacity and duplication of costly airport infrastructure, a limited contribution to accessibility and regional development as well as detrimental competition effects. In addition, it should better explain why the 2005 Guidelines are not effectively enforced, particularly the ban on operating aid. Against this background, the report should better outline the underlying market failure which still applies to the air transport sector, taking into account developments in the market and its overall context (e.g. comprehensive liberalisation of air transport). In addition, it should set out how this initiative fits with the wider EU transport policy (particularly the TEN-T initiative) and the existing differences in the regulatory framework across Member States, for instance as regards regulating certain prices/charges.

(2) Better present policy options. Given the apparent failure to enforce the existing framework, the report should clarify how the proposed rules will be effectively enforced. In particular, it should clarify how the accurate measurement of the 'funding gap' or airport passenger numbers, which determine some of the proposed restrictions on aid, will be ensured. Also it should clarify how the obligation to notify aid will be effectively enforced or what the (market) consequences are in the case of non-compliance. The report should also explain on what basis the proposed thresholds of the different options have been determined, and clarify how exceptions should apply (e.g. the 5 million passenger limit for investment aid, in principle; the 10-year transition period for aid except for services of general interest) so that they do not allow for the circumvention of the general rules. In addition, the report should clarify how the different options propose to deal with any socio-economic consequences (such as airport closures). It should specify any envisaged mitigating measures including a possible reference to the existence of regional aid programmes.

(3) Better assess impacts. The report should present a more comprehensive and robust assessment of impacts for all options. In particular, it should assess in greater detail how changes to (i) the amount of airport investment and operating aid may impact on the number of available airports, (including setting out the socio-economic consequences of any airport closures and indicating what Member States/regions will particularly be affected); (ii) the amount of aid received by airlines will impact on air transport prices (if airlines charge passengers to compensate for the loss of aid); (iii) the overall aid may impact the level of air traffic, employment, and general economic activity in the affected regions. Furthermore, the report should better assess impacts on competition in the relevant markets, as well as on administrative and compliance costs, given that their reduction is among the stated aims of the initiative. Where a quantitative assessment of the impacts is not feasible, the report should provide more detailed stakeholder views regarding the expected incidence and the order of magnitude.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The figures used throughout the report should be checked for consistency (e.g. figures in p.18 and 31 provide information which is not consistent with that in the text). The report should explain technical concepts like the funding gap, and additional start-up costs up-front. In addition, the report should set out more concrete evaluation plans, clarifying how the overall evolution of the relevant markets will be assessed in order to establish the necessity and proportionality of certain types of state aid, and the indicators that will be used to monitor the implementation of the initiative and its effectiveness in meeting the objectives.

(E) IAB scrutiny process

Reference number	2012/COMP/009
External expertise used	No
Date of IAB meeting	17 December 2013