



**European Regional  
Aerodromes Community**

**Thomas Mayer**  
Secretary

Seckenheimer Landstr. 172  
68163 Mannheim  
Germany

Phone:  
+49 621 82037574

Cell:  
+49 172 5304487

eMail:  
thomas.mayer@erac.aero

Internet:  
[www.erac.aero](http://www.erac.aero)

06 June 2011

**Register ID number: 49070403210-05**

erac Seckenheimer Landstr. 172 68163 Mannheim Germany

European Commission  
DG COMP  
Unit F-2  
B-1049 Brussels

via Email to: [Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

## **REVIEW OF THE COMMUNITY GUIDELINES ON FINANCING OF AIRPORTS AND START-UP AID TO AIRLINES DEPARTING FROM REGIONAL AIRPORTS**

Dear Madam,  
Dear Sir,

ERAC (EUROPEAN REGIONAL AERODROMES COMMUNITY), also acting on behalf of its members IDRF-Interessengemeinschaft der regionalen Flugplätze e.V., Swiss Aerodromes Association SAA and European Air Link, takes this opportunity to deliver some general comments on the Revision of the Community Guidelines on financing of airports and start-up aids to airlines departing from regional airports. ERAC would appreciate to be invited to a discussion about the specific role and needs of regional aerodromes, in order to contribute to the Commission's work on the Revision of the Guidelines. The questions raised are quite substantial.

Airports play a vital role in the European economy. They ensure the connectivity of regions and their citizens, contribute extensively to economic growth and support jobs at local, regional and national level. Consequently, in light of their positive economic impact, airports are a key priority in the framework of national and regional economic policies.

Unfortunately airports below a certain threshold are normally not commercially viable and may need public funding. In addition, these small airports often ensure the territorial connectivity of regions and conurbations and usually do not adversely affect competition in the EU given their limited traffic volume. As elements of a pan-European decentralized air traffic infrastructure, regional aerodromes have to provide access to the air traffic network wherever it is needed. With the focus on traffic not on business, the aerodromes are part of the state remits and the regional aerodrome's profitability cannot be questioned by a pure business economic-approach. Therefore the use of public funds for these infrastructures should be allowed without prior notification.

Regional aerodromes have the same function but they also help to solve the capacity constraints at major airports. They offer space and capacity to aeronautical activities. Business aviation, training, maintenance etc... are mainly located at regional aerodromes. These aircraft operations are of importance for the global economy although the revenue they generate for the airport is lower than in the airline business. The need for additional financing from third parties on regional airports has increased.

Manfred Dambach  
Director  
President IDRF e.V.  
+49 171 4421293

Dipl.-Ing. Werner Ballmer  
Director  
President SAA  
+41 79 2795206

Dipl.- Ing. Reinhard Wolk  
Director  
Chairman EAA  
+49 171 9948313

Dipl.-Ing. Thomas Mayer  
Secretary  
Managing Director IDRF  
+49 172 5304487

Dr. Pierre Moreillon  
Deputy Secretary  
Managing Director SAA  
+41 21 3124511

**REVIEW OF THE  
COMMUNITY GUIDELINES ON FINANCING OF AIRPORTS AND  
START-UP AID TO AIRLINES DEPARTING FROM REGIONAL  
AIRPORTS<sup>1</sup>**

The deadline for replies is 31 June 2011. The replies should be sent to the European Commission, Directorate General for Competition, Unit G4, B-1049 Brussels, preferably via e-mail to [Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu) indicating the consultation reference "*HT-2635 Revision of Aviation Guidelines*".

---

<sup>1</sup> [COM\(2008\) 9](#) December 2008, p. 1.

## QUESTIONNAIRE

**NOTE:** *The following questionnaire follows the structure of the [Community guidelines on financing of airports and start-up aid to airlines departing from regional airports](#). You are requested to follow the order of the questions, even though you are not required to reply to all questions. You can also submit additional information that you consider relevant and which does not fit the questions in this questionnaire.*

### A. ABOUT YOU

Please describe the main activities of your company/organisation/association. Please provide your contact details below.

**Name** Thomas Mayer / Pierre Moreillon, secretaries  
European Regional Aerodromes Community ERAC

**Organisation represented** Register ID number: 49070403210-05  
Seckenheimer Landstr. 1

**Location (Country)** Mannheim, Germany

**E-mail address** thomas.mayer@erac.aero / pierre.moreillon@erac.aero

For the sake of transparency, the Commission intends to make accessible the replies to this questionnaire on its website. In the absence of reply to the following questions, the Commission will assume that the response contains no confidential elements and can be divulged in its entirety.

For rules on data protection on the ERAC website, please see: <http://ec.europa.eu/geninfo/legal/notices/en.htm#personaldata>

#### A.1. Do you object to the disclosure of your identity?

No

**A.2. Does any of the exceptions foreseen in Article 4 of Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>1</sup> apply to your response? If so, please indicate clearly which parts should not be divulged, justify the need for such confidential treatment and provide also a non-confidential version of your response for publication on our website.**

No

---

<sup>1</sup> OJ L 145, 31 May 2001, p. 43.



## B. GENERAL

### B.1. Assessment of the market developments and the necessity to modify the 1994 and 2005 Aviation Guidelines

*B.1.1 What are, in your view, the main developments, in particular with regard to*

- (a) Economic and social matters;*
- (b) Environmental and climate change issues;*
- (c) Regulatory changes, such as passenger rights, security standards, airport charges, transport and competition with other modes of transport, tourism, tax policies, successive EU enlargements in 2004 and 2007 and extension of the Schengen zone; and*
- (d) Competition and State aid issues*

*that have recently taken place in the aviation sector and what are their impacts on the sector? Where available, please provide data or studies showing such evolutions. Where protected by copyright or contractual restrictions, please provide the references of the study.*

Regulatory changes, particularly regarding safety and security standards, passenger rights as well as the dedicated Schengen zone result in increased operational and financial burden – both in infrastructure investment and personnel – for airport operators. The sensitivity to such burdens is of course increasing as the gap between requirements to air transportation and those set to other means of transportation increases, too.

*B.1.2 How have airport / airline business models evolved since the adoption of the 2005 Aviation Guidelines? Please describe the main differences between the business models of airports providing examples (e. g. regional v. national, large v. small, passenger v. cargo, etc.)?*

There is no significant change in airport business models since the adoption of the 2005 Aviation Guidelines. But traffic increase underlines in some cases the necessity for major hubs to be relieved from business traffic and private aviation. However these aircraft operations are of importance for the regional, national and global economy although the revenue they generate for the airport is lower than in the airline business.

Another evolution is the increasing density of administrative, safety and security regulations, which raises the operating costs of aerodromes. The need for additional financing from third parties on regional airports has therefore increased. Of course the responsibility of the Aviation Guidelines themselves is limited to the respective administrative costs within this evolution.

*B.1.3 Do you consider that the 1994 and 2005 Aviation Guidelines laid down the basis for a satisfactory State aid policy in the aviation sector today? Please justify your answer.*

No, the actual Aviation Guidelines are too tight and do not reflect sufficiently the difference between business economics and national economics.

If we understand the concern for a level playing field in the segment of the larger infrastructures, there is a permanent need to adapt, develop and secure airport infrastructures to market demand and regulatory changes also necessitate a periodical review of the conditions and modalities of State aid policies. In the segment of the regional airports, the freedom of the States to grant appropriate aids must remain as large as possible.

*B.1.4 How would you describe the current competitive situation of the various stakeholders in the aviation sector? Where available, please provide the relevant data on, for instance, leading players, market shares, market share evolution in relevant markets, etc. To what extent did the 1994 and 2005 Aviation Guidelines contribute to / hamper this evolution?*

A single glance at the amount of new regulatory material in the security relevant issues shows an uneven accrual of the requirements to the airports compared to other branches of the transportation system [road, rail, etc.]. As these requirements are related to State responsibility areas [terrorism addresses the States, not the transportation means] the need for a more flexible and permissive approach of State Aid in the aviation sector is made evident.

*B.1.5 Which are, in your view, the likely developments, past or future, and where do you see the major challenges for the aviation sector in the short (during the next year) and medium term (in the next 3 years) future (airlines and airports)?*

Major challenges for the aviation sector [small and regional airports]

- Short and medium term: investments for security [personnel, scanners] and safety measures [second extension of CIP/1000]
- Medium term: financing of air navigation services [ATM] in the Single European Sky program and satellite based approach procedures [SBAS – Galileo, etc.]. As a result of all increasing costs, which pertain the small and regional airports proportionally strong, these small and regional aerodromes come more and more in a struggle for survival and therefore the complete decentralised air traffic infrastructure is in danger to collapse.

*B.1.6 Do you consider that the 1994 and 2005 Aviation Guidelines should be revised in light of these developments? Alternatively, do you consider that these developments do not justify the adoption of a new text? Which other*

*actions do you consider appropriate? Please explain what changes should be introduced and why?*

Yes, developments justify review of Aviation Guidelines and adoption of a new text to reflect the need of accrued flexibility in state participation in the regional air transportation infrastructure. Changes to be introduced include: Clear definition of State's financial responsibilities with regard to safety, security, police and customs. The needs and principles of and for a decentralised air traffic infrastructure have to be taken into account as well as the TTT papers.

*B.1.7 In case you consider that the 2005 Aviation Guidelines should be revised, do you think that a substantial revision is necessary or, alternatively, that only minor points should be amended, leaving the structure and main substantive points unchanged?*

Structure and main substantive points may be left unchanged. Revision should be aimed at a flexibilisation and at clarifying points covering State's responsibilities. The traffic function of aerodromes and the national economic aspect should become more important.

*B.1.8 Do you consider that sectoral State aid rules for the aviation sector are still necessary? What characteristics are making the aviation sector unique from the perspective of State aid control? What sectoral rules do you consider as being necessary in view of these characteristics? If so, please clarify why horizontal State aid rules are, in your view, not sufficient or appropriate for the sector. Please be as specific as possible in your reply indicating also the expected economic, social and environmental impact of the sectoral rules and of a potential application of the horizontal rules.*

Sectoral State aid rules for the aviation sector should ensure that specific issues of the sector, e.g. air traffic control, security, etc. are appropriately addressed in the sense that the States have to come up for comparative equal contributions in these domains as for other means of transportation. Furthermore, as long as they operate with insufficient revenues generated from their traffic, and to the extent of their regional role as recognised by the national authorities, State aids should not be restricted.

## **B.2. Information on business models by airport operators and airlines**

*B.2.1 In what market segments (in particular passenger air carriers v. air cargo carriers, network air carriers v. point-to-point air carriers, long haul vs. short haul air carriers, airport operators, air traffic control, air ground handling, etc.) of the aviation sector are you active? Is there in your opinion an overcapacity in these market segments? Please provide details justifying your answer.*

Our members are not only regional airport operators providing the whole range of airport services and also Air Traffic Services in some cases, but

also air operators and small AOSs. There is no evidence of overcapacity insofar as the role of regional airports and decentralised air transportation infrastructure is not only driven by capacity, but by local and regional public interest in appropriate connection to the aviation system and its network as a whole.

*B.2.2 What is your market share in the market segment(s) you are active in? Please provide also historic data (per market segment for the last ten years) in order to show the development of the market share. Please clarify extraordinary circumstances, which lead to an increase or decrease of your market share (e. g. mergers).*

The definition of “market” is important, more than the answer in percentage. One single landing of a business aircraft in a remote area with a passenger running a 100 employees factory is definitely worth more than the landing of a charter plane with 10 passengers coming back from their holidays. Another question is: What is the relevant key for aerodromes: The number of passenger or the number of A/C movements? We are not able to provide data for the last ten years for all our members together, but as an example here the data of 2009 according “Statistisches Bundesamt”:

The other than “regional” aerodromes had ~1,9 Mio A/C movements versus 1,9 Mio A/C movements at the regional aerodromes. This means a market share of 50% for regional aerodromes.

The other than “regional” aerodromes had ~1,1 Mio passengers or ~1,1 Mio passenger movements versus 1,1 Mio passengers at the regional aerodromes. This means a market share of 50% for regional aerodromes.

The market shares by this meanings haven't changed significantly the last 10 years.

*B.2.3 Please provide information on the market leaders in the market segment(s) you are active in. If possible, please provide reasons why these companies have the market leadership.*

In respect to the comment made above, the terminology “market leaders” should be considered as encompassing provision not only of scheduled and charter services, but also activities major hubs don't: access to business aviation, building space available, flight training, private aviation

In a wide economic range of the terminology “market leaders”, it has to be noticed, that all segment leaders, e.g. Volkswagen (automotive), SAP (software), North (intern. trading), Breitling (watches), are dependent on a functional, flexible and reliable decentralised air traffic infrastructure. These firms they are market leader because on a functional, flexible and reliable decentralised air traffic infrastructure. And they are market leaders because they are doing so (functional, flexible and reliable).



*B.2.4 Please describe whether you consider all market segment(s) you are active in, as competitive market(s) or not. Please justify your answer with examples and data as far as available.*

□ AC members provide ad hoc provisions in regional scheduled and charter services complementary to major airports and operate in other segments as business aviation and maintenance facilities as well as general aviation.

*B.2.5 Considering your market position, which are, in your view, the likely developments of the market segment(s) you are active in?*

Capacity constraints at major airports and industrial areas will doubtless lead to increased passenger traffic development at regional airports as well as to delocalisation of business aviation operations.

*B.2.6 Do you consider that State aid has played a (positive or negative) role in the market development so far in the market segment(s) in which you are active? If so, please specify how and why this was the case. Please provide data and narrative explanations in order to support your answer.*

Apart from purely market-driven considerations, State aids were and are necessary to regional airports to finance investments in infrastructure and operations which could not be covered by operational revenues only. This is true for the regional aerodromes and small air carrier as much as for the nowadays more or less stand-alone network carriers and big hub-airports.

*B.2.7 Please describe how you perceive the role of State aid in the aviation sector in general and in particular concerning infrastructure investment incentives, regional development, safeguarding fair competition, financing in the sector. Please justify your answer with data, if possible.*

□ outside the regulated segment of Public Service obligations (PSO), State aid also have to be available in an equal manner as for other means of transportation for infrastructure investments at regional airports, balancing operational costs if acknowledged public interest requires to do so, supporting adherence to regulations in the safety, security, passenger protection, customs/police and environment protection fields.

□ Furthermore it can be said: The smaller the aerodromes the more important is the role of State aid in order to stimulate economic investment in the region, on the aerodrome itself and so on.

*B.2.8 Where do you see the major challenges for your company and the aviation sector in general and in particular the market segment(s) you are active in the short term (during the next year), medium term (in the next 3 years) and long term (after the next 3 years)? Please distinguish in your answer between competition / economic / regulatory / political / environmental and climate change / capacity and social challenges supporting your answers with data, if possible.*

Short and medium term: security measures and safety issues [second extension of CIP/2000] development of world economy and impact on air travel

Medium term: financing of air navigation services [ATM] investments into new instrument approach procedures [SS]

Long term: fuel price, development of alternative fuels, taxation of air travel.

*B.2.9 Have you as Member State or public body granted State aid in application of the 1994 or/and 2005 Aviation Guidelines? Please specify whether the aid was approved or not, providing details on the procedure and the aid amount granted.*

Not applicable for us as an association.

*B.2.10 Have you as market participant applied to a Member State / a regional or local authority / a public undertaking for State aid under the 1994 or/and 2005 Aviation Guidelines? Please specify whether the aid was approved or not, providing details on the procedure and the aid amount granted.*

Not applicable for us as an association.

*B.2.11 Do you consider that the existing Guidelines for the aviation sector impose an adequate level of regulation or would you favour a higher or lower degree of regulation? Please be as specific as possible in your reply indicating also the expected economic, social and environmental impact connected to your view.*

Existing Guidelines' level of regulation goes too far. Some relief for regional airports and introduction of some clarifications will be helpful.

### **B.3. Definition of relevant markets for airports and airlines**

In the aviation industry there are currently several different levels of competition between the different types of airports and between airlines. Therefore, the definition of relevant markets for airports and airlines is a key factor when investigating State aid, and makes it necessary to examine the extent to which competition could be distorted and the internal market affected.

*B.3.1 Do you consider that the categories of airports and passenger thresholds referred to in Section 1.2.1. of the 2005 Aviation Guidelines are appropriate in view of the evolution of the sector? Otherwise, what changes would you consider appropriate to this categorisation? In your view is it sufficient to take into account for the categorisation of airports only passenger numbers? Which other indicators (for example tonnes of air cargo, number of aircraft movements or other indicators) should replace or also be taken into account in order to address sufficiently the impact of the different business models on the competition and trade*

*between Member States? Please be as detailed as possible, providing data and narrative explanations.*

Infrastructure and operation, which are necessary for a reliable and safe air traffic execution, are services for the public and therefore they should be accepted generally without any thresholds.

The annual passenger volume threshold for category D “small regional airports” must be questioned whether it should not be raised at a higher level than “one million per year”, as operating costs due to State requirements [security/safety] have grown.

If other indicators are intended to use, they have to be verified accurately and carefully whether they are useful, generally applicable and adequate for proportional categorisation.

*B.3.2 Are you of the opinion that the Commission should examine aid granted to all airports irrespectively of its size or do you consider that a Block exemption for small airports would be appropriate? If you are of the opinion that a Block exemption rule is appropriate, for which size of the airports should it be established? Or, do you consider that other criteria than size should be taken into account? If so, what are in your opinion these criteria? Please provide justification of your opinion and possible criteria for a Block exemption. Please be as specific as possible, providing data and narrative explanations.*

Block exemption for small airports is appropriate [such rule should be established for category D airports at least. There is no need to establish other criteria under the threshold of one million passengers per year.

*B.3.3 How do you consider should the relevant geographic and product markets be defined for airports and airlines? In particular, under which condition do you consider that a connection to one airport is part of the same geographic and product market as a connection to another airport located in vicinity respectively to a high-speed train linking the same urban areas? You are invited to answer to these questions for passenger and for freight transport.*

In case of schedule traffic for aerodromes of category D at least, connection to an airport may be considered to be part of the same geographic [not necessarily product] market as a connection to another airport with available required services and capacity is located within a distance of 100 km or one hour travelling time. [or charter traffic the figures may be higher, for mainly business motivated traveller the figures are lower etc. Therefore the geographical criteria is not the only one,

---

□ Such Block exemption could, for instance, provide for exemption from notification of State aids to certain categories of airports and set up conditions under which such aids can be considered compatible with the internal market. Alternatively, it could exempt from notification certain types or amounts of State aid, independently of the category of airports.

accessibility, type of possible operations, operating hours, type of traveller and destinations also play a major role.

*B.3.4 What are in your view the minimal legal and economic conditions under which an airport can be operated on a profitable basis and without financial assistance from the public authorities? In this respect, do you consider that the results of the study carried out by Cranfield University for the Commission in preparation of the 2005 Aviation Guidelines, which concludes that this figure varies according to the country and the business model, but is generally between 500 000 and 1 000 000 passengers, are still valid today? (A copy of the study can be found under [http://ec.europa.eu/competition/sectors/transport/reports/airports\\_competition\\_1.pdf](http://ec.europa.eu/competition/sectors/transport/reports/airports_competition_1.pdf) and [http://ec.europa.eu/competition/sectors/transport/reports/airports\\_competition\\_2.pdf](http://ec.europa.eu/competition/sectors/transport/reports/airports_competition_2.pdf); please provide reasons in case you disagree with that study.)*

The limit of 1 million passengers is a very simplified criteria and might be higher according to the level of legal requirements to be fulfilled or even higher or lower according to the kind of traffic, traveller or other means. Whenever profitability is addressed, it is important to make a difference between profitability of the airport operator *stricto sensu* and the profitability for the region as a whole [see attached study]. Furthermore we have members with well less than 1 000 000 passengers, which are operating on a profitable basis due to their high share of business traveller. But unfortunately these examples are very rare [approx. 10%].

Overall in respect of the existing category D we suggest to keep at least 1 Mio passenger [respective more than 1 Mio, taking into account the raising costs resulting from enhancement of safety and security] for a simplified categorisation.

## C. FACTUAL INFORMATION ON THE REGULATORY AND ECONOMIC ENVIRONMENT

### C.1. Airport's economic activity and activities falling within the public policy remit

Section 11 of the 2005 Aviation Guidelines distinguishes between economic activities of an airport and activities which normally fall under State responsibility in the exercise of its official powers as a public authority.

*C.1.1 Which activities of an airport in your view in your country fall within public policy remit and do not constitute an economic activity keeping in mind the notion of undertaking under EU State aid law? How are these activities defined and regulated in your country? Is the distinction made by the 2005 Aviation Guidelines appropriate? Please justify your view on this issue.*

Safety and security requirements, such as Air Traffic Control, rescue and fire fighting services, customs, police and security controls, establishing

and maintenance of infrastructure can also be State remit. The flexibility and clear reference to State responsibility with regard to these activities is considered necessary.

*C.1.2 Do you consider that the framework established in the 2005 Aviation Guidelines for differentiating between economic activities and activities falling within the public policy remit is sufficiently clear and unambiguous? What additional guidance or clarification should be introduced in possible revised guidelines?*

Not sufficiently clear. Additional guidance and clarification concerning State's responsibility to support financing of certain safety, security, customs and police investments and operations should be introduced.

*C.1.3 Is a distinction between economic and non-economic activities still relevant for an airport? Please justify your view.*

Yes, this distinction is particularly relevant for regional airports, where economic activities are limited.

## **C.2. Services of general economic interest**

Section 10 of the 2005 Aviation Guidelines sets out the possibility for certain economic activities carried out by airports to be considered by the public authority as constituting services of general economic interest. It also describes the conditions under which compensation for public service obligations imposed on an airport operator does not amount to State aid. The 1997 Aviation Guidelines provide rules for the assessment of the compatibility of compensation for public service obligations imposed on airlines.

The possibility for airport's activities to be considered as constituting services of general economic interest is specified further in the Commission Decision of 10 November 2005 on the application of Article 107(3) of the EC Treaty (now Article 108(3) TFEU) to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest<sup>1</sup> (hereafter "2005 Commission Decision on services of general economic interest"). It exempts from notification public service compensation for airports with average annual traffic during the two financial years preceding that in which the service of general economic interest was assigned not exceeding 1 million passengers and complying with the conditions set up in the decision, as well as airports whose turnover is below 100 million and which receive less than 10 million compensation per year.

*C.2.1 Are public service obligations for airports / air carriers already legally defined in your country? What is their form (law or contract)? Please indicate the relevant legal provisions. If so, how are these public service obligation entrusted on the airport operators / air carriers? If not, why is the decision not used in the aviation sector? On what basis is the compensation for discharging these public service obligations*

---

<sup>1</sup> OJ L 29 November 2005, p. 11

determined? Please be as detailed as possible, providing data and narrative explanations.

Switzerland: Air navigation law, article 10 and article 101 for air carriers makes reference for State Aids to the Swiss-Switzerland Bilateral Agreement. Public Air transportation as well as public airports are operated under “concessions” with rights and duties, granted by the State according to the Federal Constitution (Art. 70) and Air navigation law (Art. 10a)

C.2.2 Do you consider that the framework established in the 2005 Aviation Guidelines and the 2005 Commission Decision on services of general economic interest for assessing compensation given to airports is sufficiently clear? Otherwise, what additional guidance or clarifications should be introduced in possible revised guidelines?

C.2.3 Do you see any practical obstacles to the use of this possibility offered by the 2005 Aviation Guidelines and the 2005 Commission Decision on services of general economic interest? If so, how do you think that such obstacles might be removed?

C.2.4 Do you consider that additional or alternative conditions/criteria should be used in order to avoid undue distortion of competition? If so, what are these criteria?

no. State aids to regional airports should only be restricted if a demonstrated objective distortion of competition might arise.

### C.3. Factual elements to be taken into account for the application of the market economy investor principle

Section 10 of the 2005 Aviation Guidelines explains how the Commission will assess whether public funding constitutes State aid, by reference to the so-called “market economy investor principle”. This issue concerns, on the one hand, public funding of airport operators (e.g. for infrastructure investments or management, for the provision of airport services, etc.) and, on the other hand, support by airport operators to air carriers (e.g. marketing support, quantity rebates, start-up support, etc.).

#### C.3.1 With regard to the public funding of airport operators (e. g. financing of infrastructure investments, capital injections, etc.)

C.3.1. a Do you consider that the factual elements considered in the 2005 Aviation Guidelines with regard to the application of the so-called “market economy investor principle” to public funding of airports are sufficient, or do you think that additional elements should be taken into account? Please justify your reply.

C.3.1. b In case you consider that further elements should be taken into account, which ones?

C.3.1. c In your opinion, what type of costs (e. g. parking fees, rents for shops, rents for advertisement spaces, etc.) would a market economy investor

take into account when setting airport charges and defining the cost structure of commercial services offered by the airport [e.g. only variable/marginal costs, variable costs and infrastructure costs, only part of infrastructure costs, etc.]. In this context, on which basis would a market economy investor evaluate infrastructure costs [e.g. historical cost, market value, accounting value, etc.]. Please justify your views on this issue providing data and concrete business plans, if possible, and also describe the impact of the different types of the cost on the setting of airport charges and the cost structure of commercial services offered by the airport [parking fees, rents for shops, rents for advertisement spaces, etc.].

C.3.1. d) In your opinion, what type of revenues would a market economy investor base its business decisions on [e.g. only direct revenues such as airport charges, direct revenues and other indirect revenues such as parking and shop/sales revenues, etc.]. Please justify your views on this issue providing data and concrete business plans, if possible.

C.3.1. e) What time frame does a market economy investor base its investment decisions on [e.g. based on the useful economic, technical or accounting depreciation period of airport infrastructure or based on a shorter timeframe]. Please justify your views on this issue providing data and concrete business plans, if possible, and also describe the impact.

C.3.1. f) Please explain whether or not you are of the opinion that aid is necessary for ensuring that the market provides for sufficient airport infrastructure. If so, please specify for which types of airport infrastructure this may be the case and why. Did you invest in airport infrastructure without receiving aid. Please specify your answer providing data and concrete business plans, if possible.

Aid is necessary in this respect for regional airports in order to provide an adequate response to the public interest of connection to the aviation network. Regional airports fulfil a complementary role to major airports, but are not able to develop sufficient revenue from traffic and services to finance the necessary infrastructure needs.

Not only for regional airports, but in any case the development of aerodrome infrastructure is a public remit and therefore State aid is a matter of course

C.3.2 *With regard to support by airport operators and/or public authorities to air carriers (e. g. marketing support, rebates schemes and start-up support etc.)*

C.3.2 a) Do you consider that the factual elements considered in the 2005 Aviation Guidelines with regard to the application of the market economy investor principle to public funding of air carriers [e.g. in the form of marketing support, quantity rebates, start-up support, etc.] are sufficient or do you think that additional elements should be taken into account.

- C.□□ b□ In case you consider that additional elements should be taken into account, which ones□
- C.□□ c□ In your opinion, what type of revenues would a market economy investor base its business decisions on [e.g. only direct revenues such as airport charges, direct revenues and other indirect revenues such as parking and shop/sales revenues, etc.□] Please justify your views on this issue providing data and concrete business plans, if possible.
- C.□□ d□ In your opinion, what type of revenues would a market economy investor base its business decisions on [e.g. only direct revenues such as airport charges, direct revenues and other indirect revenues such as parking and shop/sales revenues, etc.□] Please justify your views on this issue providing data and concrete business plans, if possible.
- C.□□ e□ In your opinion, what type of revenues would a market economy investor base its business decisions on [e.g. only direct revenues such as airport charges, direct revenues and other indirect revenues such as parking and shop/sales revenues, etc.□] Please justify your views on this issue providing data and concrete business plans, if possible.
- C.□□ f□ Please justify your views on this issue and also describe the impact. Please distinguish in your answer between competition / economic / regulatory / political / environmental and climate change / capacity and social challenges supporting your answers with data, if possible.

## **D. FINANCING OF AIRPORTS**

### **D.1. Financing of airport infrastructure**

Section 1. of the 00 Aviation Guidelines sets out the Commission approach to the public funding of the construction of airport infrastructure and equipment or facilities.



*D.1.1 Which annual traffic (passenger and cargo) do you consider necessary in order to cover all investments and maintenance costs? Please justify your view also in light of the Cranfield University study referred to above in point C.3.4.*

Depends on the level of non-aviation revenue and of the kind of traffic, e.g. the revenue per passenger of business jets is higher than the revenue of a CC passenger.

*D.1.2 Which annual traffic (passenger and cargo) do you consider necessary in order to cover all operating costs? Please justify your view also in light of the Cranfield University study referred to above in point C.3.4.*

Depends on the level of non-aviation revenue and of the kind of traffic, e.g. the revenue per passenger of business jets is higher than the revenue of a CC passenger..

*D.1.3 Do the compatibility criteria set out in point 61 of the 2005 Aviation Guideline provide enough legal certainty and contribute to the predictability of the Commission's decisions in individual cases? Otherwise, please explain in which way these criteria could be further developed? Should there be, for example, further guidance on the maximum aid intensity that the Commission would allow for each type of infrastructure investment or for each type of airport, further indications about the eligible and non-eligible costs, and further indications on the definition of the catchment area of an airport and its degree of competition with other airports and high speed rail ?*

*D.1.4 Please justify your views on this issue and also describe the impact. Please distinguish in your answer between competition / economic / regulatory / political / environmental and climate change / capacity and social challenges supporting your answers with data, if possible.*

*D.1.5 Do you consider that public financing of airport infrastructure provides for crowding-out of private investors? Please justify your opinion on this issue.*

Public financing according to strict rules may on the contrary motivate private investors.

*D.1.6 Do you consider that public financing of regional airports provides positive and negative externalities, for instance in terms of local development, accessibility, employment, air and noise pollution, climate change? If yes, please provide examples, indicating the economic, social and environmental impact.*

Public financing is always a political issue, where discussions on positive and negative externalities take place. As for any public aid, a linkage with improvements of its environmental impact could ease acceptance.

In many European countries there are already legal decision processes in place, which cover these questions during the certification process.

*D.1.7 Do you consider that specific conditions should be attached to the financing of regional airports, for instance to limit distortion of competition or to avoid duplication on non-profitable airports? Which conditions (i.e. non-discrimination with regard to airport charges; certain minimum level of airport charges; necessity of aid; catchment area; avoid creation of overcapacity etc.)? How should the catchment area of an airport be defined (i.e. distance in kilometres, travelling time using public transport or car, etc.)?*

The limit of distortion of competition exists. Attaching more specific conditions should be left to the authority granting the aid.

*D.1.8 Please describe how important the access to finance is for you as airport operator and the cost of it.*

This question may individually be answered by IATA members, but generally spoken, access to financing is a matter of existential importance.

*D.1.9 Please describe whether or not you deem State support necessary for having access to finance, supporting your answer with data, if possible.*

A.

*D.1.10 Which annual traffic (passenger and cargo) do you consider necessary in order to cover all operating costs? Please justify your view also in light of the Cranfield University study referred to above in point C.3.4.*

A global answer to this question is not possible, the break-even level depending on a variety of factors as operational requirements and type, quality, density of traffic, among other criteria..

## D.2. Aid for operation of airport infrastructure

Section 4.4 of the 2005 Aviation Guidelines sets out the Commission approach to the public funding of costs of running and maintaining the airport infrastructure.

*D.2.1 The 2005 Aviation Guidelines consider that normally this type of aid is incompatible with the Treaty, except under certain conditions in disadvantaged regions on the basis of Article 107 (3)(a) or (c) TFEU (ex Article 87(3)(a) or (c) of the EC Treaty) or if it is necessary for the operation of a service of general economic interest in the sense of Article 106 (2) TFEU (ex Article 86(2) of the EC Treaty; see points 62-63 of the 2005 Aviation Guidelines). Do you consider that this approach remains valid? If not, what changes do you consider appropriate?*

*Yes, the approach of compatibility of State aid whenever necessary for the operation of a service of general economic interest remains valid.*

*D.2.2 Do you consider that this Section of the 2005 Aviation Guidelines provides enough guidance on the conditions that must be met in order for the public financing of the operation of airport infrastructure as compensation for the operation of a service of general economic interest in the sense of Article 106 (2) TFEU (ex Article 86 (2) of the EC Treaty) to be compatible with the Treaty? If not, what additional guidance or clarifications should be introduced in possible revised guidelines?*

*The notion of “service of general economic interest” has to be implemented in a flexible manner, taking into account the role of aerodromes not as an economical entity only, but as part of the infrastructure of a public transportation system.*

*D.2.3 As mentioned above (see section C.2), the 2005 Commission Decision on services of general economic interest applies to airport operators. However, the Community framework for State aid in the form of public service compensation<sup>4</sup>, which lays down the compatibility conditions for compensation paid to undertakings for the performance of services of general economic interest, does not apply to airport operators. This Framework and well as the Decision are currently being revised. In your view, would it be appropriate to continue to address compensation for services of general economic interest in airport operation in the 2005 Aviation Guidelines, as is currently the case, or would it be preferable to simply refer to the general rules laid down in the above-mentioned Framework and Decision? Are special rules for services of general*

---

<sup>4</sup> COM(2005) 672 of 29 November 2005, p. 4

*economic interest compensation for airport operations needed (as opposed to most other economic sectors) and if so, why?*

The establishment of special rules for services of general economic interest compensation for airport operations might be helpful to result in higher legal security. A special rule for airport operators would be of interest, in order to take into account their role, not only for operators of an element of air transportation, but as part of the infrastructure of at public transportation system.

*D.2.4 Do you consider that all airport operators should meet the normal costs of running and maintaining the airport infrastructure from its own resources? If not, please justify your view on this issue and indicate which 'critical mass' (e. g. number of passengers, number of tonnes air cargo, number of aircraft movements) is necessary for an airport in order to achieve financial viability (being able to meet the cost of running the airport including the cost for running and maintaining the infrastructure)? Please justify your view on this issue with data and in view of the Cranfield University study referred to above in point C.3.4 .*

Meeting normal costs of running and maintaining the airport infrastructure may be impossible for some regional airports with low traffic volumes, if the same regulatory burdens apply as for big airports.

*D.2.5 In your opinion, is it necessary to provide criteria for assessment of compatibility of public financing of certain operating costs outside the scope of services of general economic interest? If so, please identify these operating costs and provide a detailed justification why and on what basis, in your view, they should be considered compatible with the State aid rules.*

*D.2.6 Please explain whether you regard aid for the operation of airport infrastructure as necessary in the current business environment and in which conditions? Did you operate airport infrastructure without receiving aid? Please specify your answer by providing data, if possible.*

Yes, aid for the operation of airport infrastructure may be necessary in situations of other air operations than commercial ones (e.g. training), low traffic volume without other equivalent or acceptable means of transportation, or when normal traffic volumes unexpectedly decrease because of e.g. bankruptcy of main carrier, natural events (flooding, volcano eruptions)

*D.2.7 Please justify your views on this issue and also describe the impact. Please distinguish in your answer between competition / economic / regulatory / political / environmental and climate change / capacity and social challenges supporting your answers with data, if possible.*

### **D.3. Aid for airport services**

Section 10 of the 2005 Aviation Guidelines sets out the Commission approach to the public funding of different airport services, such as groundhandling services.

*D.3.1 Do you consider that, in general terms, the Commission approach to the compatibility of public financing of airport services is adequate? Otherwise, what should in your view be the approach to this type of aid?*

*D.3.2 Do you consider that this Section of the 2005 Aviation Guidelines provides enough guidance on the conditions that must be met in order for the public financing of airport services to be compatible with the Treaty? If not, what additional guidance or clarifications should be introduced in possible revised guidelines*

*D.3.3 Please explain whether you regard aid for airport services as necessary in the current business environment? Did you operate airport services without receiving aid? Please specify in your answer providing data, if possible.*

Aid for airport services may be necessary in cases where regional airports have limited traffic volumes which do not generate enough revenues to finance the necessary investments in measures to ensure that airport services can be performed according to regulations in force, e.g. security, passenger rights, etc.

*D.3.4 Please justify your views on this issue and also describe the impact. Please distinguish in your answer between competition / economic / regulatory / political / environmental and climate change / capacity and social challenges supporting your answers with data, if possible.*

## **E. START-UP AID**

Section 9 of the 2005 Aviation Guidelines sets out the criteria that must be fulfilled for start-up aid for new routes departing from regional airports to be considered compatible with the Treaty.

*E.1.1 Do you consider that, in general terms, the Commission approach to the compatibility of start-up aid is adequate? Otherwise, what should in your view be the approach to this type of aid?*

*E.1.2 Do you consider that the compatibility conditions laid down in point 79 of the 2005 Aviation Guidelines are appropriate, taking into account the risk of distortion of competition of this type of aid? If no, why?*

*E.1.3 Please justify your views on this issue and also describe the impact. Please distinguish in your answer between competition / economic / regulatory / political / environmental and climate change / capacity and social challenges supporting your answers with data, if possible.*

Yes, limitation as described in point 9 (b) is adequate but the time limitation and the rate of degressiveness should be adapted if market and competition conditions require.

*E.1.4 Do you consider that the current limitation of start-up aid to routes linking a regional airport in category C or D to another EU airport (point 79 (b))*

*is warranted? If not, should start-up aid be more or less restrictive in terms of airport size? Which criteria should be required?*

*E.1.5 Do you consider that the definition of new routes is adequate? If, not which changes would you propose? Are in your view the criteria to define abuses clear, relevant and effective?*

*E.1.6 Is the eligible cost base set out in point 79 (e) appropriate in your view? Should it be adapted in some way? Does this criterion offer sufficient guidance on what type of costs are eligible for start-up aid or is additional clarification needed?*

See above.

*E.1.7 In your view are the limits of start-up aid in terms of duration and intensity adequate? Otherwise, please explain what changes should be introduced and why? Please provide economic justifications.*

*E.1.8 In your view, which other compatibility criteria should be revised, abolished or added. Please explain.*

- E.1.9 Please explain whether you regard start up aid as necessary in the current business environment? Did you set up new flight routes despite not receiving Start up aid? Please specify in your answer providing data, if possible.*
- E.1.10 Did you apply and/or receive Start up aid? Please describe whether the aid was approved or not and on what grounds providing also details on the procedure.*
- E.1.11 Please describe the economic / social / environmental impacts that start up aid had for you as airline / airport, if possible, with data and narrative explanations.*
- E.1.12 Do you consider that the scope of the eligible costs for start-up aid is accurate? If not please justify your answer.*
- E.1.13 Do you consider that the aid intensity and duration serves its purpose as investment incentive or not? Please justify your reply with data also mentioned the economic / social / environmental impact.*
- E.1.14 From a transport perspective, please describe whether you regard it as justified that the 2005 Aviation Guidelines should keep the prohibition of start up aid for a connection where a high speed train link exists. Please mention also potential economic / environmental / social impacts in your answer, if possible.*

## **F. 1994 AVIATION GUIDELINES**

*F.1.1 Do you as airline / public authority consider that the rules established in the 1994 Aviation Guidelines will remain appropriate in the light of the developments of the market or do you believe that abolition or adaptations will be necessary? Please explain what changes should be introduced and why?*

Not applicable, as addressed to airlines / public authorities.

*F.1.2 Please explain what is in your view the relevance of the 1994 Aviation Guidelines after the publication of the 2005 Aviation Guidelines? Please explain which rules set out in the 1994 Aviation Guidelines should be retained?*

For practical reasons, a revised version of the 2005 Aviation Guidelines should include the rules retained from former 1994 Guidelines, thus making it unnecessary to refer back to different versions from earlier years.

*F.1.3 Is the scope of operating aid to airlines still appropriate, i.e. as regards/for public service obligation and social aid to the benefit of consumers?*



Certainly yes for underprivileged regions [islands] and outermost regions to ensure appropriate air services.

*F.1.4 Do you consider that aid of a social character to cover specific categories of passengers and underprivileged regions, mainly islands, is still justified by the market conditions? Please justify your opinion on this issue.*

es. Access to remote regions by air has to be made available if not possible by other means of transport in acceptable travel times.

*F.1.5 Are the assessment assumptions for market economy investor principle investments still valid in view of the market development, in particular concerning capital injections, loan financing, etc.*

*F.1.6 In the context of the market development do you believe that there is a need for special conditions for the assessment of restructuring aid in the aviation industry? Please provide detailed economic justifications.*

*F.1.7 In your view, which other compatibility criteria should be revised, abolished or added? Please explain.*

## **G. FURTHER INFORMATION**

*G.1.1 In case you have carried out or are aware of any studies concerning the impacts of public financing of airports or air carriers, or related aspects which maybe relevant, we would be grateful if you could provide us with these studies. You should clearly identify any confidential data in these studies. Where protected by copyright or contractual restrictions, please provide the references of the study.*

Passenger traffic development of regional airports as well as a partly delocalisation of business aviation operations require appropriate funding. Public funding is motivated by the public interest in providing equitable and efficient access to the aviation system and to the aviation network by all citizens, wherever they live and work.

A single glance at the amount of new regulatory material in the security relevant issues shows an uneven accrual of the requirements to the airports compared to other branches of the transportation system (road, rail, etc.). As these requirements are related to State responsibility areas (terrorism addresses the States, not the transportation means) the need for a more flexible and permissive approach of State Aids in the Aviation sector is made evident.

According to the EU Treaty (Art. 107), aid granted for the development of certain regions and the execution of certain important projects of common economic interest may be considered compatible with the internal market. This must of course also apply to airports and in a general and wide manner to regional airports.

As a general principle, the public financing of airport infrastructure, management and operations for airports in category D should as before be allowed without restrictions. In the light of increased operating costs due to new regulations, the question of a higher volume limit than the present one of 1 Mio passengers should be discussed.

The current guidelines allow public financing of Public Service Obligations (PSO) at airports of all categories carried out in compliance with the Altmark judgment. The scope of these PSOs should be extended up to the management of the airport.

Public financing of activities under State responsibility such as security, air traffic control, police, rescue and fire fighting must be allowed without restrictions.

These are some general comments. Please find enclosed the questionnaire with our answers to specific questions raised in this context and one study (german language).

With best regards

EUROPEAN REGIONAL AERODROMES COMMUNITY

Dr. Pierre Moreillon  
Legal and International affairs  
Seckenheimer Landstr. 172  
68163 Mannheim  
Germany  
[Pierre.moreillon@erac.aero](mailto:Pierre.moreillon@erac.aero)

Thomas Matthias Mayer  
Secretary  
Seckenheimer Landstr. 172  
68163 Mannheim  
Germany  
[thomas.mayer@erac.aero](mailto:thomas.mayer@erac.aero)