



EUROPEAN COMMISSION

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Brussels, 31.07.15

C(2015) 5254 final

Subject: State aid SA. 39466 (2015/N) – United Kingdom – Start-up aid to airlines operating in the United Kingdom

Sir,

1. PROCEDURE

- (1) By electronic notification of 10 April 2015 the UK authorities notified to the Commission, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (TFEU)¹, an aid scheme aiming to provide support for the opening of new air passenger transport services connecting certain UK airports to other airports in the Common European Aviation Area (CEAA)². The notification was registered under case number SA.39466.
- (2) The Commission asked the UK authorities to provide additional information by letter dated 3 June 2015. The information requested was submitted by the UK authorities on 18 June 2015.

2. DESCRIPTION OF THE AID

2.1. Eligible UK Airports

- (3) Airports with average annual traffic of below 3 million passengers per annum will be eligible. The UK will base this calculation of traffic levels on the average of the previous two calendar years, and in this regard has supplied example data on

¹ OJ L 138 of 30.04.2004

² See Decision 2006/682/EC of the Council and of the Representatives of the Member States meeting within the Council on the signature and provisional application of the Multilateral Agreement between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo on the Establishment of a European Common Aviation Area (ECAA) (OJ L 285, 16.10.2006, p. 1).

The Rt Hon Philip HAMMOND
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the airport traffic figures for 2013 and 2014, to demonstrate the airports which would be eligible for the scheme in 2015. These data showed that overall there were 36 UK airports whose average annual traffic for 2013 and 2014 fell below 3 million passengers, as displayed in Table 1:

Table 1 – UK Airports with average annual traffic below 3 million passengers in 2013/2014

Airport	2014	2013	Average 2013/2014
Belfast City (George Best)	2,555,111	2,541,703	2,548,407
Southampton	1,829,607	1,722,443	1,776,025
Cardiff Wales	1,019,545	1,057,073	1,038,309
Southend	1,102,260	969,912	1,036,086
Prestwick	912,399	1,144,568	1,028,484
Exeter	766,572	737,919	752,246
Doncaster Sheffield	724,252	689,761	707,007
Bournemouth	660,374	659,021	659,698
Inverness	611,150	606,722	608,936
Norwich	458,931	463,029	460,980
City Of Derry (Eglinton)	350,257	384,973	367,615
Scatsta	279,799	298,308	289,054
Blackpool	223,998	262,630	243,314
Sumburgh	262,626	209,747	236,187
Humberside	237,329	234,641	235,985
Newquay	219,167	174,632	196,900
Durham Tees Valley	142,274	159,311	150,793
Kirkwall	150,877	149,574	150,226
Stornoway	127,237	119,904	123,571
Isles Of Scilly (St Marys)	90,944	89,170	90,057
Land's End (St Just)	44,284	46,299	45,292
Benbecula	31,190	30,612	30,901

Airport	2014	2013	Average 2013/2014
Wick John O Groats	27,633	33,091	30,362
Islay	27,412	25,721	26,567
Manston (Kent International)	12,385	40,143	26,264
Dundee	22,069	27,560	24,815
Cambridge	20,663	9,249	14,956
Gloucestershire	15,141	14,129	14,635
Barra	10,521	9,410	9,966
Campbeltown	9,331	9,427	9,379
Tiree	9,026	8,270	8,648
Oxford (Kidlington)	1,194	6,840	4,017
Lerwick (Tingwall)	3,591	3,784	3,688
Lydd	1,227	670	949
Shoreham	452	732	592
Biggin Hill	497	326	412

2.2. Objective of the aid

- (4) The proposed aid ("Protocol for UK Start-Up Aid for Airports of less than 3 million Passengers per annum") is a start-up aid scheme in the aviation sector, whose objective is to create net economic benefits for the UK regions involved by improving the connectivity between these regions and other regions across Europe.

2.3. Form of the aid

- (5) The proposed scheme will select passenger airlines via a call for tenders for the opening of new routes connecting airports located in the UK with average annual traffic of below 3 million passengers per annum with other airports located in the CEAA.
- (6) The start-up aid will be provided as a direct grant to passenger airlines whose proposals have been accepted.
- (7) The proposed aid to support the launch of new routes is intended to cover up to

50%³ of the airport charges incurred in operating the new route.

- (8) The aid awarded under the proposed scheme will be paid from the “Regional Air Connectivity Fund”.

2.4. National legal basis

- (9) The payments made under the proposed scheme will be based on the Local Government Act 2003.

2.5. Budget

- (10) The proposed scheme will have a maximum total budget of 60 million GBP, and an indicative annual budget of 16.7 million GBP, although the UK authorities only expect a small amount of funding to be allocated in the initial period of 1 September 2015 to 31 March 2016.

2.6. Duration of the scheme and the aid

- (11) The proposed scheme will run from 1 September 2015 to 31 March 2019. The implementation of the proposed scheme will only start when approval of the European Commission has been obtained. Aid may be granted only in respect of a maximum of the first three years of the operation of the new route in question.

2.7. Beneficiaries

- (12) The beneficiaries of the aid will be airlines which are chosen following the tendering procedure. Airlines of all sizes are eligible. The estimated number of beneficiaries of the scheme is between 11 and 50.

2.8. Eligible routes

- (13) Under the proposed scheme start-up aid to airlines can only be provided if the following cumulative criteria are met:
- i. The proposed air service is not already being operated between the two airports of the proposed route;
 - ii. There is no high speed rail between the city pairs served by the two connected airports; or
 - iii. The proposed air service is not already being operated by another airport in the same catchment area under comparable conditions.
- (14) Eligible routes must be genuinely new routes, and not existing routes, and in this regard, the UK authorities define new routes as those which meet the following cumulative conditions:
- Routes that have not been served by an airline offering transport to paying passengers within the 12 months preceding the planned start date for the operation of the new services.
 - Routes where, prior to the publication of the call for tenders, there had been no announcement by an airline of a planned start of operation of the

³ See section 2.11.

route during the 12 month period following the publication.

- Routes to destinations that are not likely to result in transfer of passengers from an existing route involving another airport within the same catchment area.
- (15) The UK will consider an airport to be within the same catchment area if the journey time by car, bus, train or high-speed train between the two airports can be reasonably expected to be less than 60 minutes.
- (16) Notwithstanding the above, the UK authorities will also take into account whether a proposed route is already served by any airports within a 100km radius, but more than 60 minutes journey time away, and in such cases the Department for Transport will look to assess whether the introduction of the route is likely to cause distortion to the market.
- (17) The UK authorities have included into the bidding process an opportunity to hear any objections from other interested parties before any decision is made with regard to whether a route will be funded (see recital (26)).
- (18) No aid will be given for routes that are not actually new routes, but instead simply involve a more frequent schedule on a route already served.

2.9. Performance Review, Reporting and Disputes.

- (19) All airlines will be expected to review the operation of the subsidised routes, and provide the UK Department for Transport annually with information on the number of flights, passenger numbers, revenues and costs. The UK also proposes a disputes procedure for unsuccessful applicants to the scheme.

2.10. The tendering and selection procedures

- (20) The UK Department for Transport will organise the call for tenders that will select airlines that might have an interest in inaugurating new services to and from any of the eligible airports.
- (21) The UK authorities consider that the routes to be supported by the proposed aid have a higher risk factor for airlines than existing routes, and therefore would in general not otherwise be operated without aid.
- (22) The UK authorities state that they opted for the proposed support method after having received feedback on what would incentivise the creation of new routes. The feedback they received from airports and airlines was that airlines are unwilling to set up new routes if there is a risk they will be unprofitable in the early years, even if their analysis shows that within a couple of years of operation the route would become commercially viable. After having assessed the difficulties that would arise from the various alternatives for stimulating the setting up of new routes, the UK authorities considered that the granting of start-up incentives was the most appropriate route.
- (23) The UK authorities will make their plans public in good time and with an adequate publicity to enable all interested airlines to offer their services. The call for tenders will be advertised on the Department for Transport's website.

- (24) The UK authorities will not grant aid under the proposed scheme for the launch of new routes before the official application for aid under the rules of the selection procedure has been received.
- (25) To ensure an open and fair process the UK Department for Transport will publish a timetable for receiving bids from airlines to provide start-up aid. The timetable will provide sufficient time for airlines to provide evidence that the route meets the requirements of the proposed scheme.
- (26) The timetable will also allow a period of time for the UK authorities to hear any objections from other interested parties who believe that the provision of aid may distort the market before any decision is made with regards to whether a route will be funded.
- (27) According to the UK authorities, the tender procedure follows that of UK public sector project appraisal in general, and the general approach to transport appraisal, as set out in the Department for Transport's Appraisal Guidance. It has been customised to the specific requirements of appraising individual applications for support at the level of a single air route or service.
- (28) The tender procedure will have five stages:

2.10.1. Stage 1: Initial application

- (29) In the first stage interested airlines will be asked to supply basic information to allow the UK authorities to determine whether the proposed route meets the essential conditions of the proposed scheme, including the departure and destination airport, proposed start date and schedules, passenger forecasts for the first three years, evidence of the airline's viability, and the benefits the proposed route will generate.
- (30) In addition, the data supplied must be accompanied by an *ex ante* business plan.
- (31) This business plan should incorporate the above mentioned data, and other data including:
- Rationale for the route, i.e. what markets is it trying to serve, such as point-to-point, onward connecting, business, leisure, inbound or outbound.
 - Why there is believed to be a "gap" in the market.
 - Strategic fit with other routes by the same airline.
 - What other routes the aircraft will be used for.
 - Fit with the origin airport route portfolio.
 - Information regarding the route:
 - i. Airports being served
 - ii. Distance between the two airports
 - iii. Journey times by different modes

iv. Proposed air service provision

v. Aircraft type

vi. Catchment area size

- Information regarding previous services operated on the route.
- Explanation why the route is not commercially viable in the years funding is being sought for.
- Evidence that supports the passenger number forecasts for each of the years covered by the business plan.

- (32) The business plan must clearly show that the route will become profitable on its own merits upon expiration of the aid, which can be no longer than three years after the commencement of the operation of the route.

2.10.2. Stage 2: Department of Transport initial screening process

- (33) The second stage will involve a screening to check a number criteria including in particular whether the proposed routes are compatible with the requirements of section 2.8 above. The Department of Transport will check other basic data, such as whether the airline has an operating licence, whether the airports chosen are able to handle the service, and whether there is *prima facie* evidence that the service is capable of being commercially viable in the medium term (at the end of the funding period).
- (34) Route proposals passing this initial screening will then be published in advance of moving to the next stage to allow other airports or airlines operating within the same catchment area a period of time to inform the Department of Transport if they are planning to operate the route commercially. Where a credible representation is made that this is the case, then the route will no longer be considered compliant for start-up aid.

2.10.3. Stage 3: Commercial, economic and strategic appraisal of proposed route

- (35) The third stage will involve the UK Department of Transport seeking independent advice to assess whether the proposed route can reasonably be considered to be commercially viable at the end of the funding period.

2.10.4. Stage 4: Appraisal of bids

- (36) The fourth stage, will involve an appraisal of the complete bids, and this appraisal will include an assessment of all assumptions and inputs into the business case. The output of this appraisal will be a benefits cost ratio, and a quality score.

2.10.5. Stage 5: Determining schemes to be funded

- (37) There will be a fifth stage, before funding is awarded, if more bids are received than funding is available. This will involve combining the benefits cost ratio and quality score into a final score, in order to decide which bids are to be funded.

2.11. Aid intensity and cumulation

- (38) The proposed aid will cover up to 50% of the cost of airport charges incurred for the operation of the new route.
- (39) The UK authorities intend to establish in both the calls for tenders and in the eventual contracts signed with the aided airlines, that the proposed aid cannot be cumulated with other types of aid for operating the same route, including aid paid in another state.
- (40) Under the proposed scheme, the UK authorities will require all applicants for funding to make a “declaration of other aid”. The aim of this is to identify whether other sources of public funding have been applied for or secured. The UK’s Department for Transport will also check with other appropriate governmental bodies as to the existence of other aid schemes. In the event of other aid being present, the exact intensity will be calculated and the aid granted under the proposed scheme will be reduced to the 50% maximum accordingly.

3. ASSESSMENT OF THE AID

3.1. Existence of aid within the meaning of Article 107(1) TFEU

- (41) According to Article 107(1) TFEU *"any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market"*.
- (42) The criteria laid down in Article 107(1) TFEU are cumulative. Therefore, in order to determine whether the notified aid constitutes State aid within the meaning of Article 107(1) TFEU, all the above mentioned conditions need to be fulfilled. Namely, the financial support should:
 - (a) be granted by the State or through State resources,
 - (b) favour certain undertakings or the production of certain goods,
 - (c) distort or threaten to distort competition,
 - (d) affect trade between Member States.
- (43) State resources: Since the notified aid involves financing granted by the UK authorities, it involves the use of State resources and is imputable to the State.
- (44) Selective economic advantage: The proposed scheme will consist of grants from State resources allocated to selected airlines by the UK authorities. The subsidies in question will give the beneficiaries a competitive advantage over other operators on the same liberalised market, reducing costs normally borne by the beneficiaries for the expansion of their activity. As the public financing is directed to certain eligible airlines, to the exclusion of competitors, it is therefore

selective.

- (45) Distortion of competition and impact on trade: When aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing in intra-Union trade, the latter must be regarded as affected by that aid⁴. It is sufficient that the recipient of the aid competes with other undertakings on markets open to competition⁵. Support by the UK authorities of new air services distorts or threatens to distort competition between airlines and affects trade between Member States as air transport services is a fully liberalised activity in the internal market, in which many undertakings from different Member States compete against each other.
- (46) On the basis of the above, the Commission concludes that the notified aid scheme involves aid within the meaning of Article 107(1) TFEU. By having notified the planned aid to the Commission and not having put it into effect before its approval by the latter the UK authorities have observed the stand-still obligation under Article 108(3) TFEU.

3.2. Compatibility of the aid

- (47) The Commission will examine the compatibility of the proposed scheme in the light of the Guidelines on State aid to airports and airlines⁶ (hereinafter the "guidelines").
- (48) The guidelines set out in points 138-155 several cumulative conditions to be complied with, in order for start-up aid granted to airlines launching new routes to be found compatible with the internal market under Article 107(3)(c) TFEU:

(a) Contribution to a well-defined objective of common interest.

Start-up aid to airlines will be considered to contribute to the achievement of an objective of common interest, if it:

a) increases the mobility of Union citizens and the connectivity of the regions by opening new routes; or

b) facilitates regional development of remote regions.

When a connection which will be operated by the new air route is already operated by a high-speed rail service or from another airport in the same catchment area under comparable conditions, in particular in terms of length of journey, it cannot be considered to contribute to a well-defined objective of common interest.

- (49) The aid is to be granted to encourage airlines to launch new routes from UK airports with fewer than 3 million passengers per annum to other destinations in

⁴ See, in particular, Case 730/79 Philip Morris v Commission [1980] ECR 2671, paragraph 11; Case C-53/00 Ferring [2001] ECR I-9067, paragraph 21; Case C-372/97 Italy v Commission [2004] ECR I-3679, paragraph 44.

⁵ Case T-214/95 Het Vlaamse Gewest v Commission [1998] ECR II-717.

⁶ Communication from the Commission Guidelines on State aid to airports and airlines (OJ C 99, 04.04.2014, p.3).

the CEAA. As set out in recital (4), the scheme's objectives are to create net economic benefits by improving the connectivity of the regions involved.

- (50) As set out in recital (13), where a route is already served by high-speed rail services, or by an existing air service, then it shall not be eligible for support.
- (51) For these reasons, the proposed aid can be considered to contribute to a well-defined objective of common interest.

(b) Need for State intervention.

The conditions that smaller airports face when developing their services are often less favourable than those faced by the major airports in the Union. Also, airlines are not always prepared to run the risk of opening new routes from unknown and untested airports, and may not have appropriate incentives to do so.

On this basis, start-up aid will only be considered compatible for routes linking an airport with less than 3 million passengers per annum⁷ to another airport within the Common European Aviation Area.

Start-up aid for routes linking an airport located in a remote region to another airport (within or outside the Common European Aviation Area) will be compatible irrespective of the size of the airports concerned.

- (52) As set out in recitals (3) and (5), only routes to or from UK airports with fewer than 3 million passengers per annum will be eligible for support, and only with respect to destinations with the CEAA. The UK authorities' method of counting passenger numbers is in line with the methodology of the guidelines (see footnote 7), including the "one-way count" rule. This condition is thus fulfilled.

(c) Appropriateness of State aid as policy instrument.

The Member States must demonstrate that the aid is appropriate to achieve the intended objective or resolve the problems intended to be addressed by the aid. An aid measure will not be considered compatible with the internal market if other less distortive policy instruments or aid instruments allow the same objective to be reached.

An ex ante business plan prepared by the airline should establish that the route receiving the aid has prospects of becoming profitable for the airline without public funding after 3 years. In the absence of a business plan for a route, the airlines must provide an irrevocable commitment to the airport to operate the route for a period at least equal to the period during which it received start-up aid.

- (53) As set out in recital (22) above, the UK authorities opted for this support method

⁷ Actual average annual passenger traffic during the two financial years preceding that in which the aid is notified or actually granted or paid in the case of non-notified aid. In the case of a newly created passenger airport, the forecasted average annual passenger traffic during the two financial years after the beginning of the operation of commercial passenger air traffic should be considered. These thresholds refer to a one-way count. This means a passenger flying for example to the airport and back would be counted twice; it applies to individual routes.

after receiving feedback from the aviation industry, and analysing various alternative ways to achieve the same objective. The Commission considers therefore that they have sufficiently demonstrated the appropriateness of the aid instrument chosen.

- (54) As set out in recitals (30) to (32), the call for tenders requires applicant airlines to provide an *ex ante* business plan for each route which must show the profitability of the route in question after the aid has expired, which in any case must be within three years. This condition is thus fulfilled.

(d) Existence of incentive effect.

Start-up aid to airlines has an incentive effect if it is likely that, in the absence of the aid, the level of economic activity of the airline at the airport concerned would not be expanded. For example the new route would not have been launched.

The new route must start only after the application for aid has been submitted to the granting authority. If the new route begins before the application for aid is submitted to the granting authority, any aid awarded in respect of that individual route will not be considered compatible with the internal market.

- (55) As set out in recital (21), the design of the scheme targets higher risk routes that would not have been operated without the proposed aid. Furthermore, as set out in recital (14), aid will only be considered for routes which have not recently been operated, or for routes which no airlines have plans to operate.
- (56) The fact that these routes are not currently operated, have not been recently operated, and are not planned to be operated by any airline, demonstrates that it is likely that the level of economic activity of the airline at the airport concerned would not be expanded to the same extent in the absence of the aid.
- (57) In addition, as detailed in recital (31), in submitting their business plans, applicant airlines must explain why the route is not commercially viable in the years funding is being sought for.
- (58) Finally, as set out in recital (24) above, the aid will not be awarded where operation of the new route has commenced before the submission of the application for aid.
- (59) For these reasons, the proposed aid can be considered to provide an incentive effect.

(e) Proportionality of the aid amount (aid limited to the minimum necessary).

Start-up aid may cover up to 50% of airport charges in respect of a route for a maximum period of three years. The eligible costs are the airport charges in respect of the route.

- (60) As detailed in recital (7) above, the aid intensity of the proposed scheme will be limited to 50% of the airport charges incurred in the operation of the new route in question. As detailed in recital (11) above, the proposed aid is to be granted in

respect of a new route for a maximum period of three years. This condition is thus complied with.

(f) Avoidance of undue negative effects on competition and trade.

In order to avoid undue negative effects on competition and trade, where a connection (for example, city-pair) which will be operated by the new air route is already operated by a high-speed rail service or by another airport in the same catchment area under comparable conditions, notably in terms of length of journey, such air route will not be eligible for start-up aid.

Any public body which plans to grant start-up aid to an airline for a new route, whether or not via an airport, must make its plans public in good time and with adequate publicity to enable all interested airlines to offer their services.

Start-up aid cannot be combined with any other type of State aid granted for the operation of a route.

- (61) As set out in section 2.8, where a route is already served by high-speed rail services, or by an existing air service, than it shall not be eligible for support.
- (62) As set out further in section 2.8 above, only genuinely new routes that are not likely to result in a transfer of passengers from an existing route involving another UK airport are eligible.
- (63) Furthermore, as set out in recitals (17) and (26), the UK authorities have included a period in the timetable of the selection procedure in order to allow third parties who believe that they would be adversely affected by the subsidisation of a proposed route to make their representations.
- (64) With regard to the requirement for adequate publicity, as set out in recital (23) the available funding will be advertised on the Department of Transport's website.
- (65) As set out in section 2.11 above, and analysed in section 3.2.1 below, the UK authorities shall ensure that the proposed aid cannot be combined with other types of State aid for the operation of the same route. This condition is therefore fulfilled.
- (66) For these reasons, the proposed aid can be considered to avoid undue negative effects on competition and trade.

3.2.1. Cumulation

- (67) The guidelines set out in points 158-159 criteria in relation to the cumulation of State aid:

The maximum aid intensities applicable under these guidelines apply regardless of whether the aid is financed entirely from State resources or is partly financed by the Union.

Aid authorised under these guidelines may not be combined with other State Aid, de minimis aid or other forms of Union financing, if such a

combination results in an aid intensity higher than that laid down in these guidelines.

- (68) As set out in section 2.11 above, and in recital (65) above, the UK authorities commit to ensure that the proposed aid cannot be combined with other types of State aid granted with respect to the operation of the same route, including such aid paid in another Member State. This should thereby ensure that the maximum aid intensity of 50% applicable to start-up aid schemes will not be exceeded.

3.3. Conclusion

- (69) In view of the foregoing, the Commission concludes that the compatibility criteria laid down by the guidelines for start-up aid are complied with and the notified aid scheme is compatible with the internal market pursuant to Article 107(3)(c) TFEU.
- (70) The UK authorities are reminded of the transparency obligations with regard to the publication of details of aid granted, as outlined in section 8.2 of the guidelines.

4. DECISION

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)(c) 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:

European Commission
Directorate-General for Competition
State aid Greffe
1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Member of the Commission

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION