



EUROPEAN COMMISSION

MEMO

Brussels, 23 July 2014

State Aid: further details on Commission decisions regarding public financing of airports and airlines in Germany, France and Austria

(See also [IP/14/863](#)).

Today, the Commission has taken six decisions under EU state aid rules with regard to public aid measures to airports and airlines relating to three airports in Germany (Dortmund, Leipzig/Halle and Niederrhein-Weeze) and three airports in France (Angoulême, Pau Pyrénées and Nîmes). It has also extended the scope of its formal investigation in relation to Klagenfurt airport in Austria. Since the beginning of 2014, the Commission had already finalised its assessment in eleven other cases concerning public aid measures to airlines and airports.¹

Public interventions in companies carrying out economic activities can be considered free of state aid within the meaning of EU rules when they are carried out on terms that a private player, operating in a market economy, would have accepted (the market economy operator principle – MEOP). If the MEOP is complied with, the measure confers no advantage to the company and therefore involves no state aid.

If the MEOP is not complied with, the measure involves state aid and the Commission then examines whether it can be found compatible with the EU's Single Market. This means that the Commission checks whether the measure complies with common EU rules that allow granting aid for projects furthering goals of common interest, such as EU transport or cohesion policy objectives, under certain conditions.

The assessment criteria for public interventions in airports and airlines are set out in the Commission's Aviation Guidelines, adopted in February 2014 (see [IP/14/172](#), [MEMO/14/121](#) and, for more details, [policy brief](#)). These rules aim to ensure good connections between regions and meeting the transport needs of European citizens, while establishing a level playing field among airports and airlines in the Single Market.

1) Dortmund airport – Germany

After conducting an in-depth investigation (see [IP/07/1051](#)), the Commission has approved investment and operating aid granted through a profit and loss transfer agreement between the publicly owned holding company DSW21 and Dortmund airport. The Commission has found that the airport serves a genuine demand in the Ruhr region and improves its connectivity in line with the new Aviation Guidelines.

¹ Berlin Schönefeld ([IP/14/173](#)), Aarhus ([IP/14/174](#)), Marseille ([IP/14/175](#)), Ostrava ([IP/14/176](#)), Groningen ([IP/14/403](#)), Stretto ([IP/14/660](#)), Isles of Scilly ([IP/14/533](#)), Canary Islands ([IP/14/401](#)), Verona ([IP/14/402](#)), Gdynia ([IP/14/138](#)) and Dubrovnik (case [SA.38168](#)).

The Commission's separate formal investigation into schedules of airport charges applicable since 2004 –(called NERES and NEO, see [IP/12/265](#)) showed that the revenue generated from the airlines was expected to cover Dortmund airport's costs. In addition, the introduction of these schedules of charges was expected to increase the operating profits of the airport. Thus, the airport behaved as any private operator would have in similar circumstances and the arrangements conferred no advantage to the airlines. Therefore, these arrangements involved no state aid within the meaning of the EU rules.

Dortmund airport currently serves 1.9 million passengers per year and provides scheduled European wide destinations, with the emphasis on Central and Eastern Europe. It is served by EasyJet, WizzAir, Air Berlin, Germanwings, Sky Airlines and Sun Express.

The non-confidential version of this decision will be made available under the case numbers [SA.22030](#), [SA.29404](#), [SA.32091](#) in the State Aid Register on the [competition](#) website once any confidentiality issues have been resolved.

2) Leipzig/Halle airport – Germany

After an in-depth investigation (see [IP/11/706](#)), the Commission has approved aid to Leipzig/Halle airport. The investigation revealed that shareholder loans financing infrastructure investments to expand the airport's freight business were granted on market terms, and therefore did not constitute state aid within the meaning of EU rules. The Commission also found that capital injections to be granted to the airport do constitute state aid. However, they are compatible with EU state aid rules because they are in line with conditions set out in the new Aviation Guidelines: the aid is limited to the funding gap of the investment project, which i) responds to a genuine transport need in the region, and ii) constitutes a valuable contribution to local development, in particular in view of the congestion and night flight restrictions at other German airports specialised in air freight. This is the first decision under the new Guidelines authorising aid for a freight specialised airport.

Leipzig/Halle airport is an airport specialised in freight, serving currently around 890 000 tonnes of cargo and around 2.3 million passengers. It has a major positive impact on employment in the region with 5 100 people working at the airport and around 8 100 indirect jobs that were created as a result of the airport's activity. In 2008, the Commission had already approved €350 million investment aid for the construction of the southern runway of Leipzig-Halle (see [IP/08/1191](#)).

The non-confidential version of this decision will be made available under the case number [SA.30743](#) in the State Aid Register on the [competition](#) website once any confidentiality issues have been resolved.

3) Niederrhein-Weeze Airport – Germany

Following an in-depth investigation (see [IP/12/44](#)), the Commission has approved public support to the regional airport of Niederrhein-Weeze. The investigation has found that various support measures, in particular loans granted jointly by the District of Kleve and the Municipality of Weeze, were either free of state aid, or in line with the 2005 and 2014 Aviation Guidelines because they furthered the connectivity of the region without unduly distorting competition. Moreover, a direct grant provided by the North Rhine-Westphalia Region for financing various investments, was found compatible with the 2005 Aviation Guidelines. In its assessment of the aid measures, the Commission took into account in particular the limited public involvement alongside a massive investment made by the airport's controlling private owner. The investigation also revealed that the aid was

necessary to keep the airport in business in view of the important size of its catchment area and the congestion of neighbouring airports at the time.

Niederrhein-Weeze airport is a former British military airbase located close to the Dutch border near Nijmegen, which has been converted into a civil airport in 1999 and started commercial operations in 2003. Ryanair is its largest client. The German authorities privatised the formerly state-owned company which manages and owns the airport when it was sold to a Dutch private investor in 2002. Traffic reached a record high of 2.9 million passengers in 2010, before going back to 2.2 million in 2012.

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4) Angoulême Airport – France

Following an in-depth investigation (see [IP/12/265](#)), the Commission has approved public support granted by France to the small regional airport of Angoulême. In particular, the Commission has concluded that the financing provided to the airport since 2002 was limited to compensating it for the provision of services of general economic interest (SGEI). Moreover, the public support contributed to the development of safe and viable air transport infrastructure in the Poitou-Charentes region. It has clearly helped improving the accessibility and connectivity of the region, given that Angoulême is over 100 km away from the next regional airport. This limits the potential distortion of competition triggered by the aid.

However, the Commission also investigated contractual rebates and marketing arrangements concluded with Ryanair and its subsidiary Airport Marketing Services (AMS) in 2008. Its investigation showed that these resulted in an undue economic advantage to Ryanair over its competitors. The agreements could not have been reasonably expected to improve the financial situation of the airport when they were entered into, and no private operator would have accepted to grant similar conditions to the airline in similar circumstances. Therefore, they involved state aid. The Commission found that this aid was mere operating aid granted without furthering any objective of common interest and which could not be declared compatible with the internal market. Ryanair therefore needs to pay back an undue advantage of around €868 000, to remove the distortion of competition that the incompatible aid has created.

Angoulême is a French local airport in Charente (Poitou-Charentes region) with very limited traffic. Between 2002 and 2012, it received several infrastructure subsidies, as well as public support to finance its operations. Following a complaint filed by Air France, the Commission opened an in-depth investigation in 2012 (see [IP/12/265](#)).

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5) Pau Pyrénées Airport – France

After an in-depth investigation (see [IP/07/1794](#), extended in 2012 see [IP/12/44](#)), the Commission has approved investment aid granted by France to the operator of Pau-Pyrénées airport, the Chambre de Commerce et d'Industrie de Pau-Béarn (CCIPB), for infrastructure upgrades. The investigation found that the measures complied with the then applicable [2005 aviation guidelines](#), because they furthered the connectivity of the region without unduly distorting competition in the Single Market.

The Commission has also found that airport service agreements and marketing arrangements concluded between the CCIPB and Ryanair/AMS between 2003 and 2011, as well as a contract signed with Transavia in 2006, gave these companies an undue economic advantage over their competitors. These agreements could not have been reasonably expected to improve the financial situation of the airport when they were entered into. No private operator would have accepted to grant similar conditions. Therefore, they involved state aid. The Commission found that this aid was mere operating aid granted without furthering any objective of common interest and which could not be declared compatible with the internal market. The beneficiaries therefore need to pay back this undue advantage (around €2.4 million for Ryanair/AMS and around €400 000 for Transavia), in order to remove the distortion of competition the incompatible aid has created.

Pau is a regional airport in the Pyrénées-Atlantiques department (Aquitaine region). In 2007, the French authorities notified contracts concluded by the airport operator and Ryanair / AMS to the Commission that subsequently opened an in-depth investigation to assess their compatibility with EU state aid rules (see [IP/07/1794](#)), the scope of which was extended in 2012 (see [IP/12/44](#)).

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6) Nîmes Airport – France

Following an in-depth investigation (see [IP/12/400](#)), the Commission has approved operating aid granted by France to the Chambre de Commerce et d'Industrie de Nîmes – Uzès – Le Vignan (CCIN) and Veolia Transport Aéroport de Nîmes (VTAN), the successive managers of Nîmes airport. The Commission assessed the measures under the new Aviation Guidelines' provisions for past operating aid, namely operating aid granted to airports before 4 April 2014. The Commission found, in particular, that the aid was limited to the minimum necessary to ensure the economic viability of the airport and did not give rise to undue distortions of competition. Moreover, the airport contributes to the economic development of the region.

However, the Commission has also found that airport service and marketing agreements concluded between CCIN and VTAN and Ryanair/AMS between 2000 and 2010 provided these companies with an undue economic advantage over their competitors. These agreements could not have been reasonably expected to improve the financial situation of the airport when they were entered into. No private operator would have accepted to grant similar conditions. Therefore, the arrangements involved state aid. The Commission found that this aid was mere operating aid granted without furthering any objective of common interest and which could not be declared compatible with the internal market. Ryanair/AMS therefore need to pay back the undue advantage of around €6.4 million that they have received, in order to reduce the distortion of competition created by the incompatible aid.

Nîmes is a small regional airport in the Gard department (Languedoc-Roussillon region). In 2012, following a complaint filed by Air France, the Commission opened an in-depth investigation (see [IP/12/400](#)).

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7) Klagenfurt Airport – Austria

The Commission has extended the scope of an ongoing in-depth investigation into financial arrangements at Klagenfurt Airport, opened in February 2012 (see [IP/12/156](#)). The initial investigation covered (i) financing measures in favour of the airport operator Kärntner Flughafen Betriebs GmbH (KFBG), and (ii) various airport service agreements and marketing agreements concluded between KFBG and some of the airlines flying from Klagenfurt airport. In particular, the initial investigation covered an airport service agreement and a marketing agreement concluded with Ryanair and one of its subsidiaries in January 2002. The Commission opened the formal investigation because it had serious doubts whether these two agreements were carried out on market terms, since they appeared to be excessively favourable to Ryanair, and therefore could involve incompatible state aid.

The Commission has recently learned about the existence of two additional marketing agreements concluded by KFBG and Ryanair (and its subsidiaries) on the same day as the above mentioned ones. The Commission had not been informed about the existence of these agreements, neither by the Austrian authorities, nor in submissions received from third parties in reply to the opening of the in-depth investigation.

At this stage, the Commission considers that the two additional agreements should be seen as a single transaction together with the two other agreements concluded on the same day and that the four agreements should thus be analysed together. Moreover, the Commission has concerns that the magnitude of the advantage enjoyed by Ryanair has been strengthened by the two additional agreements.

Klagenfurt airport is a small regional airport located in Carinthia.

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