

Consultation Guidelines on State aid for climate, environmental protection and energy 2022

Input from German Aviation Association (BDL)

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1. Introduction

The German Aviation Association (BDL) acknowledges the targets of the Green Deal and the “Fit for 55” package and will support any attempt to increase the sustainability of the aviation sector within the Paris Agreement and the targets of the European Climate Law. The measures in the aviation sector to support the legislative package “Fit for 55” frame the largest transformation in the history of aviation to a sustainable and CO₂ neutral industry.

For the aviation sector the two most effective paths to increase sustainability is the fleet renewal (new aircraft or retrofitted aircraft) and the use of Sustainable Aviation Fuel (SAF).

Whilst the restructuring of fleets is an instrument available now, the production and use of SAF is a more midterm perspective due to the current lack of production sites and sufficient renewable energy. Both paths represent a major financial challenge for airlines: A sustainable fleet renewal requires heavy financial investments for purchasing or retrofitting aircraft. Switching from conventional fossil fuels to their much more expensive, but climate-friendly alternatives will cause a huge increase of operating costs due to the fact that fuels make up for a high share of the operational costs in the aviation sector. These major financial challenges meet an industry which is largely hit economically in utmost negative way by the Corona pandemic, especially the passenger traffic. In consequence the sector suffers under a massive drain of cash due to the pandemic anyways and is burdened with a high amount of debt. Furthermore the “Fit for 55” package potentially decreases financial resources of operators, be it by an energy taxes with no effect to climate protection, or be it by a more stringent Emissions Trading System with less free and more expensive certificates and increased fuel prices induced by mandatory blending of sustainable aviation fuels.

Thus, the logic to include sustainable and clean mobility in the concept of state aid is highly appropriate. On both national as well as EU level it is clear that this important transformation is not possible to achieve without the support and the financial backing of member states and the EU as aviation is a global industry and customers have the possibility to avoid higher cost due to climate fees and taxes using airlines and hubs outside the EU.

In order to achieve the target to have an effective framework in place which enables this transformation the stakeholders need enough time to revise the Guidelines for State aid for climate, energy and environmental protection. Twelve weeks during the summer vacation time for such a complex matter which ultimately is a key to the transformation process needed to achieve the ambitious climate goals are not enough and oppose achieving the objectives of the Green Deal as they cannot be reviewed in depth.

2. A summary of the currently planned guidelines for clean mobility / aviation

- The state aid has to be applied by a public tender.
- Only the part of investments enabling climate protection are eligible for state aid.
- State aid is available for existing aviation companies only if they replace old aircraft by best-in-class aircraft (purchase or lease). State aid cannot be used for existing companies for the growth of fleet.
- State aid can be granted for refitting aircraft, if they meet the criteria of clean aircraft after the retrofit.
- Best-in-class is defined as follows: An aircraft with a certified metric value that exceeds by at least 10% the latest environmental protection standards of the International Civil Aviation Organization (ICAO) contained in Annex 16 to the Chicago Convention, including the CO₂ metric values for aircraft “New Type”, as referred to in Article 9, point (2), of

Regulation (EU) 2018/1139, or: an aircraft that replaces another aircraft that already exceeds the latest noise and emissions environmental protection ICAO standards for aircraft “New Type”, contained in Annex 16 to the Chicago Convention and as referred to in Article 9, point (2), of Regulation (EU) 2018/1139 and delivers an improvement in the level of environmental protection by at least 10% compared to the aircraft that it is replacing.

Furthermore, the guideline outlines conditions under which a reduction on environmental taxes can be granted for different reasons, especially when high environmental taxes could develop as a market distorting burden for European companies.

3. Position of German Aviation Association (BDL)

Generally we appreciate the concept of supporting the transport sector applying state aid with the scope of a clean mobility.

It has to be acknowledged that the most effective and immediate tool to reach sustainability targets in commercial aviation will be the use of Sustainable Aviation Fuels (SAF). The use of electricity / battery based technologies will play a role in aviation only in a mid- to long term perspective and for short haul flights. As SAF would be usable by the same highly efficient aircraft purchased today, supporting now a quick rollover into a more fuel efficient fleet with the support of state aid does not hinder or prolong decarbonisation in the future but actually supports it at an earlier stage.

The competitive bidding process stated in points 48/49 places a significant hurdle to the companies: Ordering aircraft is an intense negotiation process between airline and manufacturer involving enormous resources and the possible state aid – based on public and transparent criteria - might be a substantial decision driver. Meeting all published criteria but losing state aid to another competitor at the very end of the process is not realistic. We urge to define clear technical and procedural criteria and if these criteria are met the state aid shall be granted.

The guideline’s definition of “clean aircraft” has to be more transparent in a market where only two major manufacturer of aircraft and a limited number of engine types exist. Furthermore it is not yet clear to the companies, which environmental standards have to be met and in which way the percentage differences have to be understood. We are currently not in the position to define which – if any – aircraft/engine type combination would be suitable within the terms of this guideline. Complex algorithms based on yet unavailable data hinders the airline companies to evaluate if new versions of aircraft types of the next upcoming years such as Airbus 330 neo, Airbus 320 neo, Airbus 220 or Boeing 777 (8/9), Boeing 737 (max), or Boeing 787 could be covered by the guidelines. If not, the program would be useless for the aviation sector and would miss out the chance to support more sustainability in aviation.

Furthermore, for air cargo it has to be stated that there are almost no short-haul production freighter available in the market at the moment, exchange of existing aircraft to retro-fitted, but more efficient ones should be included in the guidelines as well. The criteria for retro-fitted aircraft should be revised in a way, that there are realistic options with existing aircraft to meet substantial sustainability targets in order to be covered by the guidelines.

In consequence, more clarification is required: For that purpose we would like to ask if EASA could be mandated to operationalize the stated criteria in terms of a “positive-list” of aircraft / engine type combination for the stated both cases. In the case, that no aircraft / engine type of the newest available generation of fuel efficient aircraft and engines are compliant with the criteria of the guideline, the criteria shall be adjusted to the “available best-in-

class” aircraft of the major manufactures in order to contribute in a short and long term way to climate protection in aviation.

For aircraft based on new and carbon free technologies (electric / battery / hydrogen) also a growth of fleet should be subject to state aid programs as these aircraft would replace growth with fossil fuel based aircraft.

When it comes to the energy sector, it has to be clarified that not only the SAF production of biogenetic fuels but also synthetic fuels (Power to Liquid fuels) should be covered by the guidelines, as they are the most promising long-term path to a sustainable aviation. We suggest to cover investment (CAPEX) and operating cost (OPEX) in the guidelines.

Any link to the concept of the European Taxonomy focussing on sustainable investments has to be avoided, due to the very narrow focus of the current guideline. Instead, the instrument of “carbon contracts for difference” could and should play a major role to operationalize state aid especially in the deployment of SAF.

Aviation is a global industry and a lot of traffic to and from Europe is provided by airlines not based in Europe. State aid guidelines should refer as well to which extend non-European airlines especially in North America, Asia and Middle East / Turkey are supported by their governments be it as a reaction to the Corona crisis be it in the ecological transformation process, in which also states outside the EU are engaged.

The guidelines option to reduce environmental tax could be useful to prevent major market distortions in the global transfer aviation traffic imposed by regional (intra-European) fuel taxes and the intra-European Emission Trading. This is especially relevant for EU to Non-EU passenger transfer travel. European air carriers offering feeding flights to European aviation hubs like Frankfurt, Paris or Amsterdam are obliged to contribute to the European Emission Trading and will have to pay fuel taxes (“Fit for 55” package). And, this cost will increase substantially by the “Fit for 55” package. Furthermore, they have to purchase for feeding flights within the EU and for flights leaving the EU increasing fuel prices based on the blending of SAF. Instead, Non-EU airlines using Non-EU hubs will not pay fuel taxes or do not contribute to the European Emission Trading System. In the future, they only have to pay higher fuel prices on their EU-outbound flight to their hubs, if they purchase fuel in the EU at all. The price induced relocation of traffic flows to hubs outside the EU does not contribute to climate protection and harms European businesses substantially. Thus, tax refunds – based on person-specific (non-EU <> EU transfer passenger) intra-European fuel consumptions and emissions to avoid major market distortion should be endorsed by the guidelines.

For the part of the airports we welcome the proposed guidelines, as they provide a much-needed state aid framework to facilitate green airport investments in the areas of building, renewably energy, clean aircraft and ground handling and terminal equipment, installation for recharging / refuelling and further areas.

More clarification is required when it comes to the size of airports covered by the guideline: We welcome the fact that environmental support may be granted to all airports, regardless of their size, but Paragraph 11 states that the proposed new Environmental State Aid Guidelines “prevail” over point 17(b) of the 2014 Aviation State Aid Guidelines with regard to environmental aid measures for large airports with more than 5 million passengers per annum. The proposal does not mention investment aid for the categories of airports with less than 5 million passengers per annum as specified in the Aviation Guidelines. Thus, we propose to ensure consistency with the 2014 Aviation State Aid Guidelines.

Contact

German Aviation Association (BDL)
Norbert Lübben
Head of Economics
Friedrichstraße 79, 10117 Berlin, Germany
E-mail: Norbert.luebben@bdl.aero
+49 (0)30 520 077 130

The German Aviation Association (BDL) was founded in 2010 as a joint representation of the interests of the German air-transport sector. Members of the association are airlines, airports, German air traffic control and other aviation service providers.