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Ireland's Response to the European Commission - Competition

Targeted review of the General Block Exemption Regulation (State aid): extension to ports and airports (Ref: HT.4691)

Ireland supports the inclusion of ports and airports in the General Block Exemption Regulation (GBER).

Ports

The governance model for ports in Ireland is broadly in line with that elsewhere in Europe. This model is one of publicly-owned port authorities with high levels of private sector involvement in the provision of infrastructure and services. Irish ports operate on a commercial basis and it is the current policy of the Irish Government that no Exchequer funding is provided to any port activity or infrastructure.

While the EU Commission has not, to date, promulgated specific guidelines in relation to State aid for maritime ports, we welcome this initiative which aims to simplify the application of such rules, reduce administrative burdens and costs, and speed up the implementation of projects. We also believe that this initiative will provide greater legal certainty for measures relating to ports and we welcome the clarity afforded by the new Article 56b on *Investment aid for maritime ports* which, together with Chapter 1, sets out the conditions which must be met in order for investment aid for maritime ports to be compatible with Article 107(3) of the Treaty and to be exempt from the notification requirement of Article 108(3) of the Treaty.

Regarding the proposed new provisions relating to inland ports (Article 56c), we would note that Ireland does not have any inland ports for the purposes of this Regulation.

Airports

Given its island status and peripheral location in Europe, air access is particularly important for Ireland and our airports play a crucial role in terms of national and regional connectivity. Over 80% of all passenger movements into and out of Ireland are by air. Our smaller regional airports in particular facilitate connectivity for some isolated, remote or peripheral regions of the EU.

The three State airports in Ireland, Dublin, Cork and Shannon, are owned by publicly-owned airport authorities who operate them on a commercial basis without recourse to funding from the Exchequer.

In addition to the three State airports, four smaller regional airports in Donegal, Ireland West Airport Knock (IWAK), Kerry and Waterford also currently operate scheduled passenger services. Ireland's *National Aviation Policy* that was published last August acknowledges the role played by these regional airports due to a level of international connectivity that they bring to a region for the tourism and business sectors. These four regional airports receive Exchequer funding supports under Ireland's *Regional Airports Programme 2015-2019* which was deemed compatible by the EU Commission with Art. 107(3)(c)TFEU, having regard to the Commission's 2014 *Guidelines on State aid to airports and airlines* (Decision C(2015) 5311 final).

While we welcome the proposed inclusion of airports in the GBER regime, we would be anxious that the Commission ensures that there should be no potential for any confusion between the existing rules governing State aid to airports (i.e. the *Guidelines on State aid to airports and airlines 2014*) and the corresponding rules that will apply to airports under the GBER regime.

In this regard, Ireland has sought clarification from the Commission in relation to the proposed (amending) GBER Regulation including, for example, the following:

(i) Will the proposed (amending) GBER Regulation have any implications for the continued implementation by Member States of State aid schemes for airports that have already been approved by the Commission under the 2014 Guidelines on State aid to airports and airlines (2014/C 99/03)?

(ii) When adopted, what will be the relationship between this new amending GBER Regulation and the (*airport* elements) of the 2014 Guidelines (2014/C 99/03); how does the Commission see the two operating in tandem?

(iii) The 2014 Guidelines (2014/C 99/03) provide for both investment aid and operating aid to airports, in accordance with the rules laid down in those Guidelines. The Guidelines envisage operating aid to airports being phased out after a transitional period of 10 years (April 2024). Given that the proposed amending GBER Regulation appears to be applicable only to investment aid, can the Commission clarify if operating aid for airports will continue to be exclusively governed by the relevant provisions of the 2014 Guidelines?

(iv) Once the new amending GBER Regulation is adopted, the provisions of Chapter 1 of the original 2014 GBER will be applicable to airports. Art. 5 of the latter Regulation refers to the method of calculating the aid, and so also does paragraph 9 of proposed new Art. 56a. Both of those references appear to be different to the methodology set out at section 5.1.1 (e) of the 2014 Guidelines for airports. It would be helpful if the Commission could explain these differences and the reasons for them.

(v) Similarly, both documents have sections referring to the ‘incentive effect’ – Art. 6 of 2014 GBER and section 5.1.1 (d) of the 2014 Guidelines. While the latter was written specifically with airports in mind, Art. 6 of 2014 GBER is of more general application (but will be applicable to airports following adoption of the amending GBER Reg.) and is more extensive than 5.1.1.(d). Again, it would be helpful if the Commission could provide further information on these differences.

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