



**PRESIDENT  
OFFICE FOR COMPETITION  
AND CONSUMER PROTECTION  
TOMASZ CHRÓSTNY**

Warszawa, 20 września 2024 r.

DMP-3.560.1.2024

**Ms Lindsay McCallum  
Deputy Director General  
European Commission**

*Dear Ms McCallum,*

with regard to the public consultations on the draft for a:

- 1) *Commission Regulation declaring certain categories of aid in the rail, inland waterways and multimodal transport sector compatible with the internal market in application of Articles 93, 107 and 108 of the Treaty (TBER);*
- 2) *Communication from the Commission – Guidelines on State aid for land and multimodal transport (LMTG),*

I would like to present the position of the Polish authorities on the aforementioned drafts, together with two additional documents comprised of detailed remarks.

As regards the **TBER** and the **LMTG**, the Polish authorities propose, i.a.:

- referring to aid to launch new commercial passenger railway connections a reformulation of the provisions in such way that, by removing the condition of more than 400 km distance between „terminals”<sup>1</sup>, the aid could also be granted in case of connections on shorter distance. The above-mentioned distance condition could be discriminatory and discourage railway undertakings from launching potential new railway connections;
- in the case of aid for the acquisition of vehicles for rail or inland waterways transport to remove the condition<sup>2</sup>, according to which aid is granted exclusively to undertakings qualifying as new entrants in the railway sector or SMEs, because public services

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<sup>1</sup> Art. 11(2) of the TBER and point 107(b) of the LMTG.

<sup>2</sup> Art. 14(3)(b) of the TBER and section 4.2.2.3 of the LMTG.

in regional railway passenger transport are mainly conducted by large undertakings. Aid for rolling stock investments should be available to all market players;

- that aid for the acquisition of vehicles for rail or inland waterways transport should also take the form of a grant and preferential loans (the 4th *Progress Report of the IRP* is included in Annex C, which i.a. highlights the need for greater availability of financing for railway undertakings<sup>3</sup>);
- with regard to other certain categories of aid, to include service and maintenance costs among the eligible costs.

Additionally, as regards the **TBER**, the Polish authorities propose i.a.:

- adding a block exemption for aid in the form of compensation for the provision of public services in freight transport;
- an extension of the notification threshold from:
  - a) 20 mln EUR to 50 mln EUR, in the case of individual investment aid granted under a scheme for the construction, upgrade and renewal of rail facilities, inland waterways facilities and rail and inland waterways multimodal transport facilities (Art. 4(b) TBER);
  - b) 10 mln EUR to 20 mln EUR in the case of *ad hoc* investment aid for the construction, upgrade and renewal of rail and inland waterways multimodal freight terminals (Art. 4(c) TBER).

Such change is justified by the fact that for the majority of investments the state aid would exceed these thresholds, meaning that – without extending the thresholds – they would be subject to notification.

Detailed remarks on both drafts are attached herein as *Annexes A* (TBER) and *B* (LMTG).

*Yours sincerely,*  
*Tomasz Chróstny*  
*Prezes*  
*Urzędu Ochrony Konkurencji i*  
*Konsumentów*  
*/podpisano elektronicznie/*

Annexes:

- A. List of detailed remarks TBER.
- B. List of detailed remarks LMTG.
- C. 4th Progress Report of the IRP.

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<sup>3</sup> See points 4.2.4 and 4.3. of that Report.