ACI EUROPE Response to the European Commission's consultation on

the General Block Exemption Regulation (State aid) review - Revised rules for State aid promoting the green and digital transition

"Airports need State aid rules aimed at Simplification & Decarbonization"

Brussels, 7 December 2021

ACI EUROPE, "The Voice of Europe's airports" (representing more than 520 airports in 55 countries) hereby submits its response to the European Commissions' consultation on the '*General Block Exemption Regulation*' (GBER) revision of State aid rules promoting the green and digital transition.

Key messages:

- ➔ *ACI EUROPE welcomed the enlarged scope of the draft Climate, Energy and Environmental State aid Guidelines (CEAAG), providing a framework for Green Airport Investments. The GBER sections on Environmental protection & Airports must be aligned with the CEAAG.*
- ➔ *The GBER must become aligned with new definition in the CEAAG relevant to airports (for example, service equipment in the paragraph on clean mobility) and enable investments in the specific airport context (for example in recharging and refuelling infrastructure).*
- ➔ *The GBER (and the CEAAG) must incentivize ambitions to decarbonize European airports already by 2030 – by adjusting eligible costs & aid intensities, scope & timing.*
- ➔ *The GBER must specifically support airport investments for early adaptation to Fit for 55 standards (e.g. electric charging of stationary aircraft at airports as provided for by the Regulation on Alternative Fuels Infrastructure proposal).*
- ➔ *The GBER threshold for operating aid to regional airports must urgently be increased to airports up to 700,000ppa or 1mppa – based on the EC Fitness Check report and to provide legal certainty in the absence of a revision of the Aviation Guidelines well before 2024.*

1. Introduction: the need for a State aid Framework facilitating Green Airport Investments

ACI EUROPE has already welcomed the draft CEAAG as it provides a much-needed state aid framework for Green Airport Investments. Airports were excluded from the scope of the 2014 Environmental State aid Guidelines and the 2014 Aviation State aid Guidelines do not contain any reference to environmental protection, decarbonisation and sustainability. These gaps have been remedied by the inclusion of environmental protection measures relating to airport infrastructure in the CEAAG, which is "prevailing" over the limitations on investment aid (excluding airports with more than 5 million passengers per annum) in the Aviation Guidelines.

The enlarged scope of the CEAAG includes several aid categories that are relevant for airports – in particular aid for the energy and environmental performance of buildings (e.g. **airport terminals**), renewable energy (e.g. **aviation biofuels & hydrogen**), clean mobility (e.g. **clean aircraft, ground handling & terminal equipment**), the deployment of recharging or refuelling infrastructure, the prevention or reduction of pollution other than from greenhouse gases (e.g. **noise abatement**), as well as the remediation of contaminated sites (e.g. **airport soil and water**).

But even with the enlarged scope, the CEAAG is only effective when the right incentives are given for Green Airport Investments – with adequate eligible costs, aid intensities and timelines.

Europe's airports have reaffirmed their commitment to climate action and achieving Net Zero CO_2 emissions - notwithstanding the devastating impact of the COVID-19 pandemic. Thus, within the EU/EEA/Switzerland:

- Already 223 airports (accounting for 84% of EU/EEA/Switzerland passenger traffic in 2019) have committed to reach Net Zero CO_2 emissions by 2050.
- 84 airports are set to deliver on their commitment by 2030, and 10 have already reached the target in 2020 (Swedavia airports).
- Furthermore, 144 airports are part of the ACI *Airport Carbon Accreditation* programme, the global standard for airport carbon management launched in 2009.

However, the participation of smaller regional airports in decarbonization efforts is mostly limited to those that are part of wider airport groups (such as VINCI Airports) or national airport networks (such as Swedavia). Thus, in the EU/EEA/Switzerland, of the 86 airports that have less than 5 million passengers per annum and participate in *Airport Carbon Accreditation*, only 17 are not part of an airport group.

Smaller regional airports have been facing significant economic sustainability challenges. These have been documented in reports on the role of regional airports[1] and airports profitability.[2]

Prior to the COVID-19 pandemic, smaller regional airports generally did not have the resources to engage in decarbonization. This situation is now made worse by the COVID-19 pandemic. This is particularly problematic in the broader context of air transport decarbonization, where the role of airports as enablers of emissions reductions by airlines will be increasingly important – this relates to the need for dedicated infrastructure to service electrified and hydrogen powered aircraft operations. As these new technologies are likely to be used mostly on smaller aircraft and short-haul routes, the role of regional airports will be critical in their deployment. As such, supporting airports in the related investments is a key factor in implementing "*Destination 2050"*[3], the roadmap to Net Zero CO_2 European aviation.

[1] ACI EUROPE, ' European Regional Airports – Connecting People, Places and Products', available on: https://www.aci-europe.org/component/attachments/attachments.html?id=1182&task=download

[2] Oxera, 'The European Commission's consultation on the 2014 Aviation State Aid Guidelines - an economic analysis of airports profitability', available on: https://www.aci-europe.org/component/attachments/attachments.html?id=328&task=download

[3] www.destination2050.eu

Beyond small regional airports, the airports industry is now and for the coming years facing a considerable financial challenge when it comes to financing decarbonization and increased sustainability.

ACI EUROPE estimates that achieving Net Zero terminal buildings for only the Top 50 European airports would require €26 billion of investment[4]. The investments to accommodate the above mentioned infrastructure requirements and adaptation involved with the deployment of new aircraft technologies have not been quantified yet. These relate to provisions of hydrogen and electricity at airports to enable zero direct emissions aircraft operations (whereas the provision of sustainable aviation fuels does not require new airport infrastructure).

At the same time, airports of all sizes find themselves in a situation of financial distress as a result of the COVID-19 pandemic. The systemic financial weakness of the airport industry results from historic financial losses in 2020, limited direct financial support from States (especially compared to airlines) and acute financial challenges ahead in the recovery and beyond.

Almost two years into the pandemic, debt is still what keeps financing current operations – with Europe's airports having taken more than €20 billion in additional debt compared to the pre-pandemic situation. While the improvement in passenger traffic resulting from the easing of travel restrictions is welcome, it is still cash-intensive and revenue-weak – meaning Europe's airports financial distress will remain a reality in 2021 and at least parts of 2022. Looking beyond that horizon, the prospect of seeing airports' earnings being restored to pre-pandemic levels will remain elusive - due to the combination of slower traffic growth, increased pressures from airlines on airport charges and regulatory uncertainty over the ability of airports to recoup at least part of their losses.

Under these circumstances, airports are facing an inescapable investment crunch, which will see them unable to keep investing in decarbonisation, let alone contemplate new investments. **In fact, airport revenues are set to remain insufficient to meet capital expenditure and capital costs at least until 2032.**[5]

It is also worth noting that as a result of inadequate state aid rules (like the 5mppa cap mentioned above), airports have been left out of national plans under the EU Recovery and Resilience Facility.

Therefore, as already warned by ACI EUROPE, the renewed and stepped-up climate ambitions of European airports must be matched by aligned regulatory and financial support – starting with a revision of State aid rules including the CEAAG and the current revision of the GBER. In this context, we submit a number of comments on the proposal for further consideration.

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[4] https://www.aci-europe.org/press-release/209-airports-license-to-invest-is-a-prerequisite-for-decarbonisation.html

[5] Alix Partners, ' *Turnaround time: Airport Financial Restart and Recovery Following COVID 19*' available on: https://www.aci-europe.org/component/attachments/attachments.html?id=1506&task=download

2. The scope of the GBER must be aligned with the CEAAG and the Aviation Guidelines

Paragraph 11 of the CEAAG states it shall "*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, "*without prejudice to future amendments of those Guidelines*". The CEAAG does not mention investment aid for the categories of airports with less than 5 million passengers per annum as specified in the Aviation Guidelines. We welcome the fact that environmental support may be granted to all airports, regardless of their size, but this may be clarified further.

The 2014 Aviation State aid Guidelines consider that the need for public funding to finance infrastructure investments will, due to their high fixed cost, vary according to the size of an airport and will normally be greater for smaller airports. The Commission has identified 5 categories of airports based on their traffic numbers which determine their financial viability (para 89 of the 2014 State aid Aviation Guidelines). To ensure consistency with the 2014 State aid Aviation Guidelines, where the proposed CEAAG and GBER provide limited eligible costs & aid intensities, they should provide increased aid intensities for all green investments of smaller airports – up to 100% for airports with no more than 3 million passengers per annum. **This should be amended in article 56a(9) of the GBER section on aid to regional airports.**

ACI EUROPE has previously called upon the Commission to issue guidance on when green airport investments may qualify as 'non-economic' – as such investments do not increase airport capacity - and therefore remain outside the scope of state aid rules. **This should also be addressed in article 56a of the GBER section on aid to regional airports.**

The sections on environmental protection should not prevent investment aid is granted to airports under the sectoral rules, either the GBER section on Aid to Regional Airports or the Aviation Guidelines. Any other GBER section **must explicitly be "without prejudice to the possibility to grant aid to regional airports under article 56a".**

Example:

Article 36a(2) of the GBER (investment aid for recharging or refuelling infrastructure) states it is "without prejudice to the possibility to grant aid for investments relating to alternative fuel infrastructure as part of port infrastructure under articles 56b and 56c".

ACI EUROPE proposes a similar reference should be included to investment aid for "airport infrastructure" in article 56a of the GBER. Airport infrastructure is already defined in paragraph 144 of the GBER.

3. The GBER and CEAAG definitions must be consistent and enable investments in the airport context

The GBER definitions must be further aligned with the CEAAG to ensure their consistency, in particular regarding definitions relevant to airports – again taking into account the amended scope of the CEAAG.

The CEAAG chapter on clean mobility introduces new definitions of "clean ground handling equipment" and "clean terminal equipment", jointly referred to as "clean service equipment". These definitions are airport specific and most welcome – the related investment conditions must also be adjusted to that context. The transition to clean service equipment is essential for the decarbonization of airports. The GBER definitions and conditionality must be adjusted accordingly. **Articles 36, 36a and 36b of the GBER (investment aid for environmental protection, including climate protection) must facilitate investments in clean mobility and recharging & refueling infrastructure in the specific context of airports.**

Example

Paragraph 140 CEAAG provides aid may be granted for the acquisition or leasing of clean mobility including "*clean ground handling equipment and clean terminal equipment*". This reference is missing in art. 36b(2) GBER on aid for the acquisition of clean vehicles or zero-emission vehicles.

Similarly, para's 55 & 59 CEAAG on recharging & refueling infrastructure refer to "*clean service equipment*" in addition to clean or zero-emission vehicles. This reference is missing in article 36(a)1 GBER on investment aid for recharging or refueling infrastructure for the supply of energy for transport purposes to clean or zero-emission vehicles.

ACI EUROPE proposes to include a reference to "clean service equipment" in article 36 and 36b of the GBER to ensure consistency with the CEAAG provisions on clean mobility.

It is important to ensure the GBER provisions on aid for recharging or refuelling infrastructure do not contain any limitations for investments in the airport context. **The definition in paragraphs 102(a) & 102(b) and the scope of article 36a on aid for recharging or refuelling infrastructure should explicitly include airports (in a similar way, it appears that sea ports are already considered in article 36a(2)). The limitation that infrastructure must be "for transport purposes" is not defined and needs to be clarified to ensure airports are in scope.**

The transition to clean mobility at airports requires significant investments in recharging and refuelling infrastructure – while such infrastructure is operated in the 'closed' context of an airport and is thus not "open to the public" as required by article 36a(7) GBER. **In the airport context, open access and the necessity of aid for recharging or refuelling infrastructures must be assumed in article 36a(7) and (9) of the GBER. Also here, a clarification is needed, taking into account that clean service equipment is not used for "road transport". A similar clarification may be included in consideration paragraphs 7 and 8 about aid for clean mobility.**

4. **State aid rules must be tailored to the need to decarbonize European aviation (eligible costs & aid intensities, scope and timing) – investments for the early adaptation of Fit for 55 standards must explicitly be supported**

Although the CEAAG and GBER aim to incentivize green investments, there are several limitations on eligible costs and aid intensities that reduce incentives for such investments to be made. ACI EUROPE has stated in its response to the CEAAG consultation that the Commission should reconsider such *ex ante* restrictions and grant as much flexibility as possible instead – notably regarding eligible costs and aid intensities in the chapters on aid for clean mobility and aid for the environmental and energy performance of buildings. Such flexibility may especially be provided by the GBER. The proposed Fit for 55 package includes new obligations for airports which require investments in scope of the CEAAG – in particular for the provision of electricity to stationary aircraft as provided for by the Alternative Fuels Infrastructure Regulation proposal. The GBER may facilitate aid for the early adaptation to these new standards which should enter into force already by 2025. The time window for these investments is already very short, while airports are facing an 'investment crunch' during the recovery from the pandemic.

Whereas the Fit for 55 provisions relate to investments in recharging & refueling infrastructure, the current focus of investments is on the decarbonization of airport buildings. For airports, the renovation of terminals is the main avenue to achieve CO_2-emission reductions. As already stated in the introduction, the Net Zero-premium for airport terminals ranges between 8% (new terminals) and 19% (renovations). Airports should in principle be allowed to recover that premium upon users through airport charges – but that is not always possible due to competitive pressures or rigid/inadequate price regulation, which both result in the inability of airports to price at the required level. The environmental performance of terminals does not impact the capacity of airports to handle traffic or to generate revenue (which, again, should be considered in the GBER). This means the right incentives need to be provided to make these investments happen.

The CEAAG provide that eligible costs correspond to the investment cost directly linked to the achievement of a higher level of energy and environmental performance. The basic aid intensity is set at a maximum of 30% of these eligible costs (para 126 of the GBER). However, the GBER provides for higher aid intensities for buildings with a specific function.

Example

Article 36(3)a and b of the GBER provides additional flexibility to grant aid for the reduction of energy demand in buildings which are used for specific purposes, including residential buildings and public buildings.

Airport terminals have a public character and an exceptionally large scope, which require high investments to achieve a reduction of energy demand. **ACI EUROPE proposes that airport terminals are included in the type of buildings mentioned in article 36(3)a and b.**

Timing will also be crucial to incentivize green investments. The proposed CEAAG and GBER both allow aid for the early adoption of future EU environmental standards – until 18 months before these

new standards enter into force, where the 2014 Environmental Guidelines provide for 12 months. To incentivize green investments this period should be changed to 6 months – also taking into account the proposed new environmental standards for aviation in the Fit for 55 package, such as electricity provision to stationary aircraft at all airports within the core and comprehensive TEN-T networks. With an increasing amount of environmental standards and targets, airports may find it difficult to meet them all at the same time. In particular, the Commission should avoid a situation whereby forthcoming environmental norms in areas otherwise covered by the guidelines (e.g. clean service equipment at airports) result in limiting the scope for state aid.

The proposed article 36(3) of the GBER to enable support encouraging undertakings to comply with Union standards already adopted and not yet into force provided that the investment is implemented and finalised "*at least 18 months before the day of entry into force*". This is a welcome step forward compared to the current article 36(3) of the GBER, which excludes investment aid to comply with Union standards already adopted an not yet into force.

Example:

The Fit for 55 proposals contain new obligations for airports regarding the supply of electricity to parked aircraft (the "*Alternative Fuels Infrastructure regulation"*) and sustainable aviation fuels (the "*Refuel EU regulation*"). These obligations should enter into force by 2025, but it is unclear when these proposals are adopted. If adopted in 2022, airports will have 3 years to complete the necessary investments. Based on the proposed GBER deadline of 18 months, investment aid for the early adaptation to these standards could only be granted until mid-2023. This short timeline prohibits any public support – which is at odds with its political importance.

ACI EUROPE therefore proposes that investment aid for the early adaptation to Fit for 55 standards may be granted until 6 months before the entry into force of the new standards.

The GBER should include a more flexible approach to determine whether aid will have an incentive effect (as referred to in CEAAG chapter 3.1.2, especially para 28). Whereas the CEAAG that aid does not have an incentive effect where a project or activity is already initiated before an application for state aid. The description of exceptional cases (para 30) must be adjusted to cater for green investments already initiated that are at risk of being delayed or cancelled in view of the financial impact of the pandemic – which is a real and urgent issue for airports. **A clear recognition of investment aid during exceptional circumstances should be included in the GBER.**

The scope and definitions should furthermore reflect limitations that airports are facing in reality – notably regarding the availability of clean ground handling and terminal equipment with "zero direct (tailpipe) CO_2 emissions" (para 18(18) and (19) of the CEAAG). For example, snow removal equipment is not available with zero emissions but may be provided with alternative (bio)fuels or biogas. Amending these definitions would be consistent with the distinction made between 'clean transport vehicles' (para 18(20) of the CEAAG) and 'zero-emission transport vehicles' (para 18(80) of the CEAAG). The scope of 'clean transport vehicles' and/or 'service equipment' should include multi-modal transport to/ from airports (e.g. shuttles and light rails) as well as on airports (e.g. landside and airside buses or light rail between airport terminals). **The same scope may need to be amended in the GBER.**

5. The GBER threshold for operating aid to airports must be increased

The Aviation State aid Guidelines in 2014, at the same time of the Environmental Guidelines that are currently being revisited as the CEAAG. The Aviation Guidelines provide a framework for operating aid during a phase-out period until 2024 – which means regional airports will go without operating support unless the Aviation Guidelines are revised or prolonged before that time. While the Environmental Guidelines are transformed into the CEAAG by 2022, together with the current GBER revision, it appears that the review of the Aviation Guidelines is not prioritized. The Timeline for State aid policy reviews 2020-2024 published by DG COMP does not contain any reference to the Aviation Guidelines. The resulting legal uncertainty for airports about the possibilities to receive operating aid beyond 2024 needs to be mitigated urgently.

The EC has conducted a Fitness check evaluation of the Aviation Guidelines already in 2019, well before the pandemic. At that time, ACI EUROPE suggested that the GBER is the optimal tool to continue operating aid for smaller regional airports. The GBER was amended in 2017 include operating aid for airports with no more than 200,000 passengers per annum – these airports are thus not exposed to the phasing out by 2024. **This figure needs to be increased to airports to reflect the needs of regional airports in reality – covering airports up to 700,000 ppa or 1mppa.**

The introduction of Article 56a GBER was aimed at addressing the need for a further simplification of the State aid rules for Member States. The objective was in particular to facilitate and provide legal certainty for investments and to allow the Commission to focus its State aid control on the potentially most distortive practices.

The Fitness Check report concludes that **many airports with less than 1 million passengers per annum will continue to need operating aid the end of the Aviation Guidelines' transitional period in 2024.** These findings were based on the situation pre-pandemic. Other key conclusions are:

- Airports with more than 1 million passengers per annum are unlikely to need operating aid, as they have sufficient passenger traffic volumes.
- Airports up to 700,000 passengers have not been able to transition towards profitability.
- Airports can reform their business and generally become able to cover their cost.
- Airport business models based on Low Cost Carriers are not viable.
- **Small airports face legal uncertainty after the end of the transition period in 2024.**

ACI EUROPE and the French Airports Association (UAF) have submitted economic analysis proving the transitional period of 10 years until 2024 is not sufficient to allow airports to reach operational costs coverage by the end of this period.[6] The report found that the majority of airports it reviewed in a case-study were unable to reach break-even by 2024. The termination of operating aid beyond 2024 would

[6] Oxera, 'The European Commission's consultation on the 2014 Aviation State Aid Guidelines - an economic analysis of airports profitability', available on: https://www.aci-europe.org/component/attachments/attachments.html?id=328&task=download

mean some regional airports need to close, which will have an adverse impact on the local economy as well as on the social and regional cohesion of the EU.

ACI already argued in 2019 that the GBER is the optimal tool to allow for continued state support to these airports, rather than a revision of the Aviation State aid guidelines. The GBER is a structural solution to a structural problem. The GBER aims to facilitate public investment that supports job creation and growth, without distorting competition. Small airports of less than 700,000 ppa clearly meet these objectives.

Although the Commission has expressed reservations against a 100% intensity for investment aid under the Aviation Guidelines, ACI EUROPE believes there should be a possible derogation in exceptional cases – where this is economically justified (e.g. an airport cannot cover operating costs) or where the investment does not aim to increase capacity (e.g. in the case of sustainability). This may be considered as part of the GBER.

The proposed measures would be proportionate, as there would be a limited risk of competitive distortions (airports below 1mppa handle only 3.25% of traffic in the EU and EFTA States). In addition, the measure would help to decrease the administrative burden for public authorities (with an average case length of 18 months).