



CPMR response to the Commission's second consultation relating to the provisions to simplify the implementation of unproblematic state aid for ports and airports

CPMR : Conference of Peripheral Maritime Regions of Europe (n° ID - 5546423688-07)

Regional operating aid implemented in the outermost regions and sparsely populated areas

The Commission's draft proposals amending the GBER recognise firstly that the application of different rules for offsetting additional costs related to transport and other additional costs is inappropriate and does not mitigate the problems experienced by the regions covered by Article 349 of the Treaty. The amendment initially proposed by the Commission presents itself as a simplification of the provisions concerning the outermost regions, where additional costs related to transport and additional costs other than those related to transport are considered jointly in accordance with Article 349 of the Treaty.

Modifications brought in by the second draft Regulation for amending the GBER

- New considerations have been introduced into the draft Regulation in order to prevent or reduce depopulation in sparsely populated areas. Thus for **sparsely populated areas**, the condition under which "the beneficiaries have their production activities in those areas" for Regional operating aid to compensate for additional transport costs, has been removed.
- A new paragraph has been introduced concerning **very sparsely populated areas where Regional operating aid schemes are intended to prevent or reduce depopulation**. The definition of **very sparsely populated areas is introduced** in the Regulation: NUTS 2 regions with less than 8 inhabitants per km².
- For the outermost regions, **the distinction in aid ceilings proposed in the first consultation between "undertakings engaged in manufacturing activities" and "undertakings engaged in other activities" has been abandoned**.
- The annual amounts of aid per beneficiary granted under all operating aid schemes are defined: [25%] of gross value added, [30%] of annual labour costs and [20%] of annual turnover. **These aid amounts, which had not been defined in the first consultation, are between 5 and 10 percentage points higher than the amounts in the current regulation.**

- The annual amount of the aid may be increased by 10 percentage points for companies with a maximum annual turnover of €300 000.
- The possibility, proposed in the first consultation, of increasing these amounts for **outermost regions located more than 4000 km from the capital of the Member State concerned has been abandoned.**

CPMR response elements

The CPMR welcomes with satisfaction the inclusion of a paragraph exempting **regional operating aid schemes which help to prevent or reduce the depopulation of very sparsely populated areas**. This kind of consideration enables these areas to tackle their recognised and specific difficulties.

The flexibility rule introduced in the Commission's first proposal for companies with a maximum annual turnover of €300 000 and allowing an annual amount of aid increased by 10 percentage points should be **extended to micro enterprises, i.e. a turnover of €2 million** as defined in the GBER.

The CPMR calls for **better consideration of additional costs linked to transport for the island regions**. Article 174 of the Treaty establishing the principle of “economic, social and territorial cohesion” recognises the specific nature of certain territories including islands that suffer from natural handicaps. Island regions are limited and isolated markets where transportation options are more restricted than on the mainland. Geographical constraints and the imbalance of flow suffered by carriers generate higher delivery costs. Island-based companies are mostly small or medium sized, cannot generate economies of scale, and the market on which they are based is limited by the size of the island. The aid granted to maritime and air carriers within the scope of public service missions is not enough to put island industries on a level playing field with those on the mainland.

To overcome this problem, **an operating aid scheme for island companies should be set up to compensate for additional transport costs**. As part of the guidelines on regional aid and the GBER such aid should be authorised and exempt in the same way as for the outermost regions and sparsely populated areas.

The CPMR once again requests that the Commission take into consideration the difficulties encountered by these regions when justifying aid per beneficiary, given the horizontal and fiscal nature of the schemes applicable to the outermost regions, as recognised in Articles 349 and 107 TFEU.

Aid for regional airports

The category of aid for regional airports has been included in the GBER partly on the basis of the Commission's case experience but also in compliance with the terms of the guidelines on state aid to airports and airlines, adopted in 2014. Investment aid for regional airports, introduced into the GBER, relates to airports with annual passenger traffic of up to three million passengers or annual freight traffic of up to 200,000 tonnes. Given that the impact on the market depends on the size of the airport, no notification threshold has been established. The aid intensities are proportional to the size of the airport and reflect the terms of the guidelines.

Modifications brought in by the second draft Regulation for amending the GBER

The second draft concerning aid for regional airports brings in some changes, in particular in terms of the exclusion ceiling for very small airports. The following are the notable elements relating to the CPMR's response to the first consultation:

- Concerning the category of investment aid for regional airports, the second draft Regulation maintains **the criteria of non-compatibility of aid for airports located at distance of 100 kilometres or travelling time of 60 minutes** by car, bus, train or high-speed train from an existing airport from which scheduled air services are operated.
- In this second draft Regulation, the conditions defining the very small airports, which are excluded from the application of the above criteria, has been increased from **annual passenger traffic of 50,000 to annual passenger traffic of up to 150,000 passengers**.
- As in the first consultation, the second draft Regulation includes **investment aid only** and still does not include certain kinds of operating aid or start-up aid for new routes.

CPMR response elements

The CPMR regrets that the criteria of distance and travelling time defining an airport's catchment area were not revised downwards. The CPMR requested, and it maintains its request stated in the first consultation, that **the distance separating two airports, defining the non-compatibility of aid, should be reduced from a distance of 100 kilometres to 50 kilometres, and that travelling time should be reduced from 60 minutes to 30 minutes by car, bus, train or high-speed train. These are distances and travelling times where alternative transport is realistically available.**

In addition, this criterion could penalise an airport located on an island at a distance of less than 100 kilometres from another airport located on another island, or on the mainland, in which case access **by road** would be impossible. These **exclusion criteria based on distance should therefore not apply in cases where there is a territorial discontinuity** and where the absence of transport alternatives (car, bus, train or high-speed train) prevents access to an airport located on another island or on the mainland.

CPMR proposes that Article 56a (4) be amended to read:

4. The aid shall not be granted to an airport located within 50 kilometres by road or 30 minutes travelling time by car, bus, train or high-speed of an existing airport from which schedules air services, within the meaning of Article 2 (16) of Regulation (EC) n°1008/2008, are operated.

The guidelines on state aid to airports and airlines define the catchment areas of airports as varying depending on the characteristics of the airport, including its location. As such, **the GBER should take into consideration the specific territorial characteristics that define the outermost, peripheral, island and sparsely populated regions by reducing or adjusting the application and/or the boundaries of this area in favour of these territories.**

The CPMR repeats its request that **paragraph 4 should not apply to airports located in the same catchment area and managed by a single operator** since this provision could adversely affect the development strategy of such airports and the regions in which they are located.

The CPMR welcomes with satisfaction **the increase from 50,000 to 150,000 passengers annually as a definition of airports for which any significant distortion of competition is excluded** given their very limited traffic.

The CPMR regrets that investment aid for **airports with an annual volume of traffic of between three and five million passengers** is still not included in this second draft. **This category of airport is, however, included in the guidelines on aid to airports and airlines, and it does concern certain airports in peripheral regions. Furthermore, in the case of airports situated in peripheral regions as defined in the guidelines*, there is no real alternative in terms of access to other airports located in the European area.**

The CPMR requests that certain types of operating aid and start-up aid be exempted. Investment aid for regional airports is the only category of aid included in the GBER. Operating aid granted to airports and start-up aid granted to airlines are not covered by the Commission's proposal. They are however essential to maintaining the connectivity of peripheral and island regions and as such should be included in the same way as investment aid. This would also optimise the responsiveness of public authorities in the implementation of new lines that are dependent on the seasonality of traffic.

** Peripheral regions: outermost regions, Malta, Cyprus, Ceuta and Melilla, other islands which are part of the territory of a Member State and sparsely populated areas*

Concerning aid for ports

The Commission's proposal to include aid for ports in the GBER consists of investment aid for maritime ports and investment aid for inland ports. In terms of eligible costs, exclusion of activities, and aid amounts, the modifications relating to inland ports are identical to those relating to maritime ports. The criteria defining the intensity of aid, however, are not the same.

Modifications brought in by the second draft Regulation for amending the GBER

With regard to aid for ports, the second draft Regulation contains some notable changes to the text initially proposed for the first consultation. Below are the relative elements pertaining to the CPMR's response to the first consultation:

- The second draft Regulation includes as eligible costs: **the costs of investment for the replacement** of maritime port infrastructure and access infrastructure within the area of the port.
- **Mobile equipment is no longer excluded from these eligible costs.**
- **Maintenance dredging remains excluded from eligible investment costs.**
- The terms defining the duration of the concession or other entrustment to a third party have been modified from **30 years** in the first draft to **"the time that this third party could reasonably be expected to take to recoup the investment made** in operating the works or services together with a return on invested capital taking into account the investments required to achieve the specific contractual objectives".
- New provisions have been introduced concerning aid of low intensity: **for aid not exceeding EUR 5 million for maritime ports and EUR 2 million for inland ports, the maximum amount of aid may be set at 80% of eligible costs. In this case, the initial scale and increases granted to assisted areas are not applicable; neither is** the calculation rule defining the maximum aid intensity as the difference between the eligible costs and the operating profit.
- The paragraph granting an increase to assisted areas remains the same as in the first draft Regulation: **"The aid intensities may be increased by 10 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(a) and by 5 percentage points for [those fulfilling the conditions of] Article (107)(3)(c)."**

CPMR response elements

The CPMR considers satisfactory **the inclusion of mobile equipment as eligible costs and the notion of replacement as infrastructure**. However, maintenance dredging remains even more vital to the proper functioning of the infrastructure than dredging to increase the port's intake capacity. For this reason, **maintenance dredging should not be excluded from eligible investment costs**.

The CPMR regrets that this second draft Regulation continues to discriminate between ports in the core network and ports in the comprehensive network. This discrimination is unacceptable and goes against the principles of accessibility, particularly since ports in the comprehensive network also contribute to the completion of the trans-European transport network. The ports in the comprehensive network drive distortion of competition even less than the ports in the core network. Eligible costs up to EUR 120 million should be extended to cover the whole of the TEN-T network.

The CPMR welcomes the specific provision made for the assisted areas as defined under Articles 107(3) (a) and 107(3) (c). However, not all the territories suffering from geographical handicaps and facing problems linked to the development and maintenance of their transport activities are covered. **A measure for an increase in percentage should be extended to the island peripheral and peripheral regions as defined in the GBER.**