

EUROPEAN COMMISSION
Competition DG

Markets and cases V: Transport, Post and other services
State aids Post and other services

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COMP F3/JP/MR/ sj/D(2014)44379

Ständige Vertretung der
Bundesrepublik Deutschland bei der
Europäischen Union
Rue Jacques de Lalaing 8 - 14
1040 Bruxelles

Subject: State aid SA.37755 – (2013 PN) - GRW – kommunale wirtschaftsnahe Infrastruktur – f) Tourismus

Dear Sir,

By letter dated 19 November 2013, your authorities submitted to the Commission services a pre-notification concerning the above-mentioned measure. The Commission requested additional information on 16 January 2014, which was provided by the German authorities on 14 April 2014. In addition, a meeting was held with your authorities on 27 March 2014.

This pre-notification concerns the funding of income-generating and non-income-generating tourist infrastructure facilities using funds from the GRW (Joint Federal-Länder Scheme: Improving the regional economic structure).

As regards the non-income generating tourist facilities, the German authorities have provided the Commission services with information supporting their view that the State financing of the following infrastructure facilities does not constitute State aid since these facilities do not relate to activities of economic nature:

- footpaths, cycle paths and bridle paths,
- learning, experience and nature paths including signage, equipment, shelters and observation posts in nature conservation areas
- car parks and picnic areas to be used without charge
- public toilets
- free information centres and similar welcoming facilities
- promenades,

Please specify the name of the case and the case number in all correspondence.

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- piers,
- ski trails,
- spa gardens,
- boat landing stages and picnic places for boaters, to be used without charge,
- floating jetties,
- bathing areas and natural theatres,
- graduation towers,
- water treading facilities.

The Commission services recall that public funding of general infrastructure such as public roads, bridges or canals, which are made available for public use without any charge and that is not meant to be commercially exploited is in principle excluded from the application of the State aid rules. In this respect, the German authorities confirmed in their submission that the non-income generating infrastructures above are:

- not commercially exploited and not connected with any other commercial activities.
- built in the interest of the general public.
- openly and equally accessible.

In view of the above, the financing of these non-income generating infrastructures appears to fall outside the scope of Article 107(1) of the TFEU.

As regards certain income generating tourist infrastructures, the German authorities have identified financing measures which in their view also do not constitute state aid due to a lack of effect on inter EU trade in view of the exclusively regional significance of infrastructures concerned:

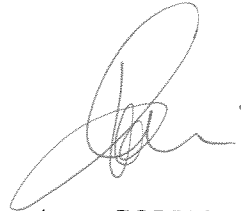
- Picnic places for boaters
- Leisure facilities for bad weather
- Small local museums, local history museums

The Commission services agree that the measures supporting such infrastructures can be considered not to have an impact on intra EU trade, provided that: these infrastructures indeed have a purely local catchment area¹, the financing of these infrastructures does not lead to demand or investments being attracted to the region concerned and does not create obstacles to the establishment of undertakings from other Member States.

¹ Taking into account the following factors: i) the location of the infrastructure; (ii) the predominance of local users; iii) the total capacity of the infrastructure relative to the number of resident users; iv) the existence of other tourism-related facilities in the area.

In conclusion, in light of the reasons above and under the conditions stated above, the services of DG Competition agree with the conclusion of the German authorities that the financing of the non-income generating tourist facilities and the local income generating tourist facilities listed above do not constitute State aid within the meaning of Article 107 (1) TFEU.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'A. Colucci', written over a light blue horizontal line.

Anna COLUCCI
Head of Unit

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