EUROPEAN COMMISSION
Competition DG

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

Brussels, 30.07.2014
COMP/F2/RH/tt*D- 2014/078363

Permanent Representation of the Czech Republic to the EU
15, rue Caroly
1050 Brussels

Subject: SA.38002 (2014/N) – Czech Republic – Modernisation of rolling stock

Dear Madam/Sir,

By letter dated 19 December 2013, your authorities submitted to the services of DG Competition a notification concerning the prolongation of an existing scheme to finance the purchase of new and refurbishing of existing rolling stock. The notification was assigned the number SA.38002. The services of DG Competition asked for supplementary information by letter dated 18 February 2014. The Czech authorities submitted further information by letter dated 18 March 2014 and by emails dated 12 June and 2 July 2014.

The scheme was formerly approved by the Commission as N 495/2007 before the entry into force of the Regulation 1370/2007[1]. Since its entry into force, this regulation is the appropriate legal base for the assessment of compatibility of financing of passenger land transport under public service contracts.

The Czech authorities notified a prolongation of the scheme until 31 December 2015. They maintained the same total budget of CZK 4.8 billion and increased the yearly budget from CZK 800 million to CZK 1.5 billion in order to be able to accomplish the originally planned purchase and refurbishment of rolling stock. The maximum aid intensity remains 50% for purchase and 30% for renewal.

Czech authorities undertook that the new or refurbished rolling stock will be used for the entire life-time of the rolling stock in the framework of successive passenger transport public service contracts. Moreover, the Czech authorities undertook that at the expiration of a public contract to which the rolling stock is attributed, the rolling stock will be, for the follow-up public service contract

a) offered to all interested parties at its remaining book value, if the public service contract is awarded on the basis of a competitive tendering procedure, or
b) transferred at remaining book value to the next service provider, if the contract is awarded directly according to Article 5(6) of Regulation No 1370/2007.

The Czech authorities clarified that the book value at purchase is the original purchase price (book value plus capitalised costs of refurbishment for the refurbished rolling stock) minus the grant. The book value at the end of the contract is the original book value minus the cumulated annual depreciations. Depreciations of rolling stock are eligible for the annual compensations under the public service contracts. Therefore an initial grant proportionally diminishes the compensations over the life-time of the rolling stock. At any time, the book

[1] REGULATION (EC) No 1370/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70, L 315, 3.12.2007, p. 1.

value corresponds to the own resources of the beneficiary that are bound in the rolling stock; that is to the price which the beneficiary paid for the rolling stock from its own resources minus depreciation, which is eligible for compensation.

If a concerned public service contract is awarded to a different operator, this one will have to pay the book value for the rolling stock to its predecessor.

The underlying public service contracts are not part of this procedure; therefore the services of DG Competition only assessed the impact of this measure on the equilibrium of public service contracts.

On the basis of the information available, the competent departments of the Directorate General for Competition have come to the following assessment.

A grant award for the purchase or refurbishment of rolling stock introduces into a public service contract an obligation to use this rolling stock. This obligation becomes a part of the public service contract. In the view of what follows, it is a minor modification thereof, which does not require a new award procedure. First, the grant diminishes the purchase price of the rolling stock. The depreciations are diminished over the depreciation time of the rolling stock by the same amount. The depreciations are eligible for compensation under the Regulation 1370/2007. Secondly, an upfront grant diminishes also the financing costs of the operator. However, financing costs of rolling stock are also eligible for compensation under the Regulation 1370/2007. Thirdly, it is likely that the new rolling stock might have a positive effect on the financial equilibrium of the current contract, for example by increasing the number of passengers and thereby increasing revenues or by decreasing maintenance costs of the rolling stock. All these effects on the costs and revenues must be taken accounted for when establishing the annual compensation for the underlying public service contract. Finally, when at the end of a public service contract the rolling stock still has economic value, the beneficiary must offer it to the operator which will be awarded the next contract at book value. Thereby, the original beneficiary is paid for what it spent in own resources. Moreover, the new beneficiary will be at equal terms in case of a tendering procedure and upon purchase of the rolling stock, it will be only compensated for the remaining depreciations on the book value under the public service contract.

Therefore on the basis of the information available at that stage the services of DG Competition came to the conclusion that under the Regulation 1370/2007 the notified scheme does not distort the financing equilibrium of the public service contracts. A notification of this scheme appears therefore not to be necessary.

Please be aware that this position is the one of the services of DG Competition and not the one of the European Commission itself. This letter is without prejudice to the assessment of the underlying public service contracts.

Yours faithfully,

P/o

Alain ALEXIS
Head of Unit

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