



European Commission Directorate General for Energy and Transport

General rules on granting state aid in the transport sector

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*General rules on granting state aid
in the transport sector
Prohibition of State Aid*

Article 87: Principle of prohibition of state aid

“... any aid granted by a Member State or **through State resources** in any form whatsoever which **distorts or threatens to distort competition** by **favouring certain undertakings** or the production of certain goods shall, in so far as it **affects trade between Member States**, be incompatible with the common market.”





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Prohibition of State Aid*

The 4 criteria for existence of State aid:

- State resources
- Economic advantage favouring certain undertakings
- Distortion of competition
- Affectation of trade between Member States





*General rules on granting state aid
in the transport sector
Exceptions*

Exceptions

State aids that are compatible Art 87(2):

- Social character
- Individual consumers
- Natural disasters
- Exceptional occurrences





*General rules on granting state aid
in the transport sector
Exceptions*

State aid that may be compatible Art 87 (3)

- a) Economic development in certain areas “regional aid”;
- b) Important projects of common European interest;
- b-bis) Remedy serious disturbance in the economy of MS;
- c) Development of certain economic activities or areas (for instance: transport);
- d) Other types of Aid established by the Council.





*General rules on granting state aid
in the transport sector
Procedural obligations*

- General obligation to notify draft State Aid to the Commission.
- MS cannot introduce new Aid without previous authorisation from the Commission.
- Aid not notified = **Illegal Aid**.
If the Aid is incompatible = **Recovery!**
- Regulation 659/99 on state aid procedures.





*General rules on granting state aid
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More procedural issues*

**Preliminary assessment and formal
investigation procedure.**

- If the **Commission has no doubts**, it adopts a positive decision on compatibility;
- If the **Commission has doubts**, it opens the formal investigation procedure;





*General rules on granting state aid
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Exception to the notification obligation*

- In certain cases there is **no obligation** to notify to the Commission:
 - When there is no aid (PSO - Altmark conditions, Administration acting as Private investor, general measure, trade is not affected ...)
 - When the Aid corresponds to a Block exemption Regulation (SME, Training, Regional, PSO ...)
 - *De minimis*





*General rules on granting state aid
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Commission guidelines for compatibility*

- **The Commission** has adopted **guidelines** in several sectors concerning **transport**:
 - Air transport 1994
 - Airports 2005
 - Maritime 2004
 - Rail 2008

- **Aid has to be notified to the Commission.**





*General rules on granting state aid
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Commission guidelines for compatibility*

- **The Commission** has adopted **guidelines** in **several sectors**:
 - Environment 2008
 - R&D&I 2006
 - Restructuring 2004
 - Regional aid 2006
 - ...





*General rules on granting state aid
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Article 73 of the Treaty*

- “Aid shall be compatible with this treaty if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service”





*General rules on granting state aid
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Council regulations for compatibility*

- **The Council** has adopted **Regulations** concerning state aid on the basis of Art 73:
 - Regulation 1191/69 on land OSP (rail, road inland navigation);
 - **New Regulation 1370/07;**
 - Regulation 1107/70 on coordination aid;
- **No obligation to notify to the Commission.**





*General rules on granting state aid
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Other relevant legislation*

- There are other rules also relevant for state aid control
 - Public procurement directives: Directive 2004/17 and 2004/18;
 - In general; Aid cannot be considered compatible if there is a substantial breach of other EC legislation.





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in the transport sector*

Thank you for your attention!

