A gathering **storm**

Patrick Edmond, managing director of e2consult, assesses the preliminary findings of the European Commission's investigations into state aid used by airports to secure airline service.

The profusion of secondary airports in Europe, and their (often public sector) owners' desire to attract scheduled services for local economic benefit or political kudos, has dealt a strong hand to airlines looking to negotiate favourable route support deals. In this respect, no airline is more feared than Ryanair, whose aggressive airport deals are an integral part of its low-cost ethos.

But the picture may be about to change.

The European Commission (EC) recently began an in-depth investigation into Beauvais airport, bringing to 15 the number of open in-depth airport state-aid investigations, and there is no sign that the momentum is slowing. Ryanair is the only airline operating to many of these airports and the dominant one at most others. And in late May, the EC published invitations for comments on two airport state-aid investigations involving Ryanair, at Altenburg in eastern Germany and Angoulême in western France. These provide a window into Commission thinking on the subject – and for Ryanair in particular, that window reveals a fast-approaching storm.

TWO-PART AGREEMENTS

The Commission describes in some detail Ryanair's agreements with Altenburg and Angoulême. These have two parts: a very aggressive deal for landing and handling, plus an internet marketing contract with a Ryanair subsidiary called Airport Marketing Services (AMS) under which the airport pays AMS a considerable sum in exchange for text or hyperlinks on the airline's website.

Although the exact monetary amounts are redacted, the Commission indicates that Altenburg contracted to pay AMS between €700,000 and €1.2 million just for marketing support in the 2008-2010 period. That was in addition to a (redacted) "success fee" per passenger which was greater than the landing and handling charge: thus, far from making any money from Ryanair service, the airport was paying the airline for each passenger, as well as paying AMS.

Angoulême's aid to Ryanair was similarly structured, with a five-year marketing agreement signed in 2008. In the years 2008-2009, the airport paid out €700,000 in marketing support, while receiving €124,380 from the airline in fees and charges, a net transfer of €11 per passenger.

The Commission is expressing concerns about the possible inappropriate use of public funds, first, to contribute to airport capital and operating expenditures, and second, to subsidise Ryanair.

Back in 2005, the EC published "Community Guidelines on Financing of Airports and Start-up Aid to Airlines Departing from Regional Airports" – inexplicably not yet a major movie! The guidelines are cumbersome and poorly defined, and have not worked particularly well in the real world; indeed, revised guidelines are due later this year.

Cumbersome or not, though, they represent the official EC view of what is and isn't acceptable. They define a dozen or so criteria which public airports must apply to start-up discounts and incentives. Among these: the aid must be proportional and "degressive" (decreasing over time); it must be focused on genuine start-up costs; and it must be based on a reasonable business plan showing that the route can ultimately be profitable without aid.

In the Angoulême case, the Commission concludes (and indeed the French authorities concur) that "the airport services contract and the marketing services contract must be considered jointly as Ryanair and AMS in fact constitute a single beneficiary of the measures in question". In other words, the formal EC view is that the AMS "marketing contracts" are an integral part of Ryanair route support, and therefore need to be evaluated against the 2005 guidelines.

While the sums involved at Angoulême and Altenburg may be relatively trifling for Ryanair, the precedent is deeply unwelcome, especially if – as seems likely – the airline has implemented the same support structure with other airports. This is likely to demolish the basis of Ryanair's route support model at publicly owned airports.

GUIDELINE COMPLIANCE

Not only will Ryanair (and any other carriers affected) have to pay back any aid judged illegal, but all future support, both discounted fees and marketing payments, will have to comply with the EC's current and forthcoming guidelines.

This could mean a very large bill for Ryanair. One could even speculate that if several investigations were to find definitively against the airline, a negotiated settlement with the Commission, rather than a war of attrition, might come to seem attractive.

It will also mean less fertile ground in the EU for carriers relying on aggressive route support deals to begin new service; the balance of power may tilt back a little in favour of airports and away from airlines.

These appear to be the first indications of a more holistic, clear-cut and pragmatic approach to route support in the revised EC guidelines later this year, which would ultimately be in the interests of all.