



EUROPEAN COMMISSION

Competition DG

State Aid: Cohesion, R&D&I and Enforcement
Regional aid

Brussels, 23/07/2009*D/53234
COMP/H1/AT/SVH/mu D(2009) 741

Permanent Representation of Ireland to
the European Union
Rue Froissart 89-93
B-1040 Brussels

Subject: State aid NN 30/2008 (ex N 660/2008) – Ireland – LIP – Hotel Capital
Allowances in respect of the Ritz Carlton, Powerscourt, Co. Wicklow

Dear Madam/Sir,

By electronic notification registered 19 December 2008 at the Commission, the Irish authorities notified their intention to grant regional aid to Ritz Carlton, Powerscourt, Co. Wicklow in the South and East Region of Ireland.

By letter of 19 February 2009, the Commission requested additional information on the notified measure. The Irish authorities submitted the requested information by letter of 1 April 2009.

In this letter the Irish authorities confirmed that the aid in favour of Ritz Carlton had already been granted in the sense that all the legal rights to receive the aid were fully conferred on the beneficiaries by [REDACTED] 2006.

Accordingly, please note that the aid was transferred to the registry of non-notified State aid under number NN 30/2009. Given that the granting of the aid occurred in 2006, the Commission services consider at this stage that the case is to be assessed under the Guidelines on national regional aid¹ (hereinafter “RAG 1998”) and the Multisectoral Framework on regional aid for large investments projects² (hereinafter “MSF 2002”).

After an initial examination, the Commission has found that the notification is still incomplete in that the following information is missing.

¹ OJ C 74, 10.3.1998, p. 9, as amended.

² OJ C 70, 19.3.2002, p. 8., as amended

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

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1. AID AMOUNT AND AID INTENSITY

In the notification the Irish authorities calculated the aid element of the hotel capital allowance by taking the maximum aid intensity of [REDACTED] as specified in the Commission decision in the case N 832/2000³. On the basis of this aid intensity, the Irish authorities indicated the aid amount to be [REDACTED] which, as you also acknowledge, is [REDACTED] than the maximum allowable aid for the project in question (i.e. [REDACTED]).

However, paragraph 29 of the above decision explains that the aid intensity of [REDACTED] NGE for corporate income tax and [REDACTED] NGE for personal income tax is based on the specific parameters concerning the tax rates and the reference rates applicable at the time of adopting the decision. The Commission services consider that in the case at hand the aid amount has to be determined by taking the rates applicable in 2005 when the project started.

- (1) Therefore, the Irish authorities are invited to specify the following parameters:
- (a) For each group of beneficiary separately the tax rate applicable in 2005
 - (b) For each group of beneficiary separately the expenditure incurred pre 2007 (eligible at a rate of 100 %)
 - (c) For each group of beneficiary separately the expenditure incurred in 2007 (eligible at a rate of 75 %)

2. APPLICATION OF THE AID SCHEME AND BENEFICIARIES OF THE AID

In order for the Commission services to understand better the practical application of the hotel capital allowances scheme, the actual beneficiaries of the measure as well as the presence of State aid within the meaning of Article 87(1) of the EC Treaty, please provide the following information.



- (2) In light of this, is the understanding of the Commission services correct that it was [REDACTED] (i.e. the beneficiaries)? Please explain in detail.
- (3) If this is the case, can it be assumed that the [REDACTED]

³ Capital Allowances Depreciation Regime for Hotels, C (2002)11 fin.

[REDACTED]

(4) In light of the fact that the eligible expenditure under the scheme N 832/2000 (extended by N 232/2006) is the [REDACTED], could the Irish authorities explain how the expenditure described in Appendix 1 of the notification for the different beneficiaries, incurred after the hotel had been constructed, can qualify for the capital allowance?

(5) What does this expenditure by the beneficiaries refer to? Is it the price paid to [REDACTED] in the context of the investor leases? Is it the actualised amount of the rent to be paid by the beneficiaries for the lease?

(6) [REDACTED]

(7) [REDACTED]?

3. MARKET ANALYSIS


In case the total amount of State aid within the meaning of Article 87(1) EC Treaty exceeds the notification threshold laid down in paragraph 24 of the MSF 2002, the compliance of the aid with paragraph 24 (a) and (b) of the MSF 2002 has to be assessed. For this purpose the relevant product and geographic markets need to be determined.

The Commission services note the notification is [REDACTED] in this respect. The Irish authorities seem to imply that the relevant market includes [REDACTED]

[REDACTED] In order to determine the relevant product and geographic markets where compliance with the thresholds of p. 24 (a) and (b) of the MSF 2002 has to be assessed, please provide the following information:

(8) Given the characteristics of the hotel in question (e.g. location, closeness to special attractions, amenities available), please explain in detail what you consider to be the relevant product and geographic market in this case (i.e. what are the establishments and geographic areas with which the hotel can be considered to be in competition for the attraction of hotel guests). Please substantiate your answer as much as possible.

(9) The Irish authorities explained that the [REDACTED]

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- (10) In order to check compliance with p. 24(a) of the MSF 2002, please provide data enabling the calculation of markets shares (at group level) in the relevant product and geographic market (identified in response to question (8) above) in the year prior to the start and following completion of the project. Data should originate from independent sources and should normally be provided both in volume and value terms.
- (11) In order to check compliance with p. 24(b) of the MSF 2002 please also provide data on capacity created by the project and the proportion of this capacity relative to the size of the relevant market in 2004, i.e. prior to the start of the project.

Without this information, the Commission is unable to define its position on the proposed measure. This information should reach the Commission within 20 working days of the date of the receipt of this letter.

Due to the complexity of the issues raised in this questionnaire the Commission services offer the possibility to discuss the questions and the Irish authorities' draft reply in a meeting in Brussels. Should you consider such a meeting helpful, please contact Mr. András Tari (tel.: +32-2-299.63.31, email: andras.tari@ec.europa.eu) to arrange the details.

Yours faithfully,

Blanca RODRIGUEZ
Head of Unit